



DEVELOPMENT CONTROL AND REGULATORY BOARD

8th OCTOBER 2020

REPORT OF THE CHIEF EXECUTIVE

COUNTY MATTER

PART A – SUMMARY REPORT

- APP.NO. & DATE:** 2020/0657/03 (2020/CM/0045/LCC) – 24th April 2020
- PROPOSAL:** Change of use from Mechanical Biological Treatment (MBT) facility to a Material Recovery Facility (MRF); increase of waste throughput to 150,000 tonnes per annum; revision to operating hours and minor ancillary revisions to site infrastructure.
- LOCATION:** Gibbet Lane, Shawell (Harborough District)
- APPLICANT:** Beauparc Group & Tarmac Trading Limited
- MAIN ISSUES:** Impact of the proposal upon local amenity and the appropriateness of the increased throughput of waste at this location.
- RECOMMENDATION:** REFUSE on grounds of:
- (i) the proposed development would 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.

Circulation Under Sensitive Issues Procedures

Mr. B. L. Pain, CC.

Officer to Contact

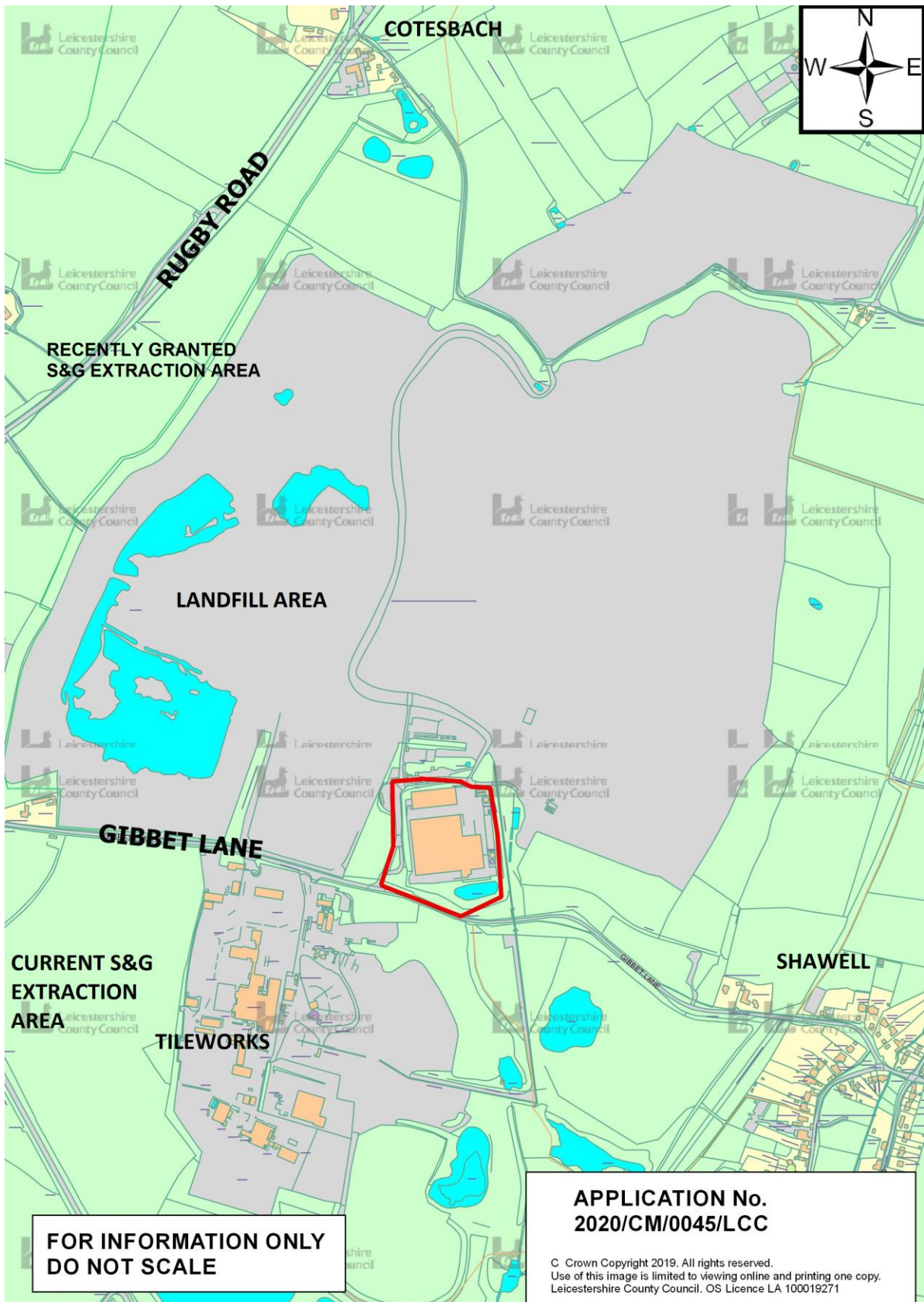
Sophie Hughes (Tel. 0116 305 8052)
Email: planningcontrol@leics.gov.uk

PART B – MAIN REPORT

Site Location

1. The application site is located on Gibbet Lane, Shawell, within the wider active Shawell/Cotesbach quarry and landfill site operated by Tarmac Trading Limited. The site is approximately 550m north west of the village of Shawell and 1.3km south of the village of Cotesbach, near Lutterworth. Gibbet Lane links Shawell with the A5/A426 roundabout junction to the west.
2. The site is on north side of Gibbet Lane, directly adjacent to Shawell landfill and previous mineral extraction areas that are being progressively restored. To the south of Gibbet Lane lies the quarry processing plant, a number of silt settlement lagoons, a roof tile works, and the site of a disused concrete block works. In addition, mineral extraction is currently taking place under planning permission 2018/1457/03 approximately 300m south-west of the site.
3. The nearest residential properties to the site are Holme Close Farm and Littledene, which are approximately 400 metres south-east on Gibbet Lane. Properties on the edge of Shawell village are 150 metres further to the east and south-east. A property known as Greenacres, on Gibbet Lane near the A5/A426 roundabout, is located approximately 700 metres west of the site. Two semi-detached properties, Keepers Cottage and West Cottage, are situated adjacent to the northern quarry boundary, 950 metres north-east of the MBT facility.
4. There are no statutory ecological designations within the application site. Cave's Inn Pit, a Site of Special Scientific Interest (SSSI) is located approximately 1km south-east of the site.
5. The application site falls into Flood Risk Zone (FRZ) 1, the lowest designated zone of fluvial flooding.
6. There are no Listed Buildings, Scheduled Monuments or Registered Parks and Gardens within or in close proximity to the application site. Within a 2km radius, there are two Scheduled Monuments: The Station at Tripontium (1005759), which is located approximately 1km south-west of the site, and the Motte castle and associated earthwork SSW of All Saints Church in Shawell (1017549) which is located approximately 1km south-east. Shawell Conservation Area is approximately 500m east of the site boundary, and the nearest Listed Buildings are at least 600m distant, within Shawell Village.
7. There are no public rights of way within the application site. The closest public right of way is Footpath X24, located 10m south of the application site on the other side of Gibbet Lane, extending in a south-east direction to Shawell village. Footpath X26 is currently temporarily diverted around the eastern side of the wider landfill/quarry site and runs parallel to the old railway line. However, in March 2023, it will return to its previous route which runs from Gibbet Lane to Shawell Lane, approximately 300m east of the facility. Bridleway X27 is also currently diverted around the western side of the wider site until August 2045, and is located approximate 275m from the application site, at its closest point.

8. By virtue of its location within a minerals site where there is provision for restoration, the proposal represents development on greenfield land in the countryside, outside of defined development boundaries.



Background

Planning History

9. In September 2008, planning permission was granted under reference 2008/0789/03 for a fully enclosed composting facility for the processing of up to 50,000 tonnes of waste per annum (tpa) and ancillary development.
10. The facility opened in 2010 and was operated by New Earth Solutions Limited (NES). The facility principally received household waste from kerbside collections in Leicestershire which was then subject to a Mechanical Biological Treatment (MBT) process to recover value in the form of recyclates (ferrous and non-ferrous metals and plastics). The main outputs of the process were a compost-like output (CLO) for use in land reclamation and refuse derived fuel (RDF) for use in energy generation.
11. Permission was subsequently sought for an increase in the throughput of the facility from 50,000tpa to 60,000tpa and a commensurate increase in the HGV movements in and out of the site from 240 to 300 a week (2012/0972/03 and 2012/CSub/0208/LCC). The increase in HGV movements was granted but the increase in throughput was refused on the ground that the operation of the existing MBT facility gave rise to an unacceptable adverse impact by reason of odour as evidenced by a significant number of odour complaints from residents in Shawell village.
12. Following the above refusal, an application for an increase in waste throughput from 50,000 to 75,000tpa was made in 2013 (2013/0809/03) and subsequently refused on the grounds of the failure of the site's location against the locational policies of the Leicestershire Waste Core Strategy which sought to locate new waste developments within or around the main urban areas. This decision was taken to appeal, and the appeal was dismissed in October 2014. The Inspector concluded that the site was not well related to waste arisings and did not have any convincing benefits of co-location. Given that the proposal related to a greenfield site in the countryside, policy required an overriding need for the development which the Inspector could not identify.

Permitted Operation

13. The permitted process involves composting of refuse. Material is subject to approximately 28 days of composting before being transferred to a maturation building where it remains for 4-12 weeks before being transferred to the screening halls. Following this, the material is screened to remove any oversized material and transferred to the adjacent landfill site for use in landfill restoration as a compost/soil replacement product. Any recyclables which are recovered from the waste stream (such as ferrous and non-ferrous metals, plastics etc.) are baled and wrapped and taken off site for recycling.
14. The material that is not suitable for recycling or composting is turned into Refuse Derived Fuel (RDF), and the bio-fines are taken into the adjacent composting halls and formed into windrows which are turned regularly to form a Compost Like Output (CLO).
15. During its operational years, the outputs from the site included recyclables that

were taken off-site for recycling. The CLO which was used at sites other than the adjacent landfill, and the RDF was sent to the Netherlands for use in energy generation. Residues and reject materials were sent to the adjacent Cotesbach Landfill.

16. Between 2010 and 2016, the facility experienced a number of operational issues and received numerous complaints, primarily regarding odour. As a result of this alongside other operational issues, the site was closed in 2016 and has remained mothballed since.

Description of proposal

Overview

17. The proposal involves a change of use from a Mechanical Biological Treatment (MBT) facility to a Material Recovery Facility (MRF) and an increase in throughput from 50,000 to 150,000tpa.
18. The proposed operation involves managing the same types of waste as currently permitted (household, commercial and industrial), but with the addition of a plastic recovery operation. The currently permitted biological treatment of waste would cease, thereby removing the composting element. Operations would instead comprise a mechanical treatment of mixed municipal and residual waste, and cleaning and processing of waste plastics.
19. The proposal involves redistributing the vast majority of waste received at the site following processing. Recycled and recovered materials are proposed to be exported for onward use and/or further recovery. Any un-processable wastes (estimated by the applicant to be around 2% of the annual throughput) would be diverted to the adjacent landfill, which is owned by Tarmac. It is stated that the facility would also accept Tarmac's waste in periods of poor weather and operational stress when throughput has to be reduced/stopped.
20. To facilitate this change of use, minor modifications are proposed to the existing buildings on the site, as well as changes to the permitted operating hours.
21. There is no increase in the number of permitted HGV movements being sought, but an increase in 12 car parking spaces (from 6 to 18) is proposed.
22. The application is supported by a Transport Assessment, an Odour Assessment and a Noise Assessment. Other information on the proposal is contained in further statements included with the planning application, as well as supplementary information provided by the applicant following the consultation.

Proposed Operation

23. The proposed operation would be spread across three enclosures/areas; Enclosures 1, 2 and 3, as detailed below.

Enclosure 1: Mechanical Treatment of Mixed Municipal and Residual Waste

24. Enclosure 1 would comprise what is currently the main reception area and in-vessel composting (IVC) halls 1 and 2, which would be fitted out for the mechanical treatment of mixed municipal and residual wastes. The proposed treatment process involves the following stages.
25. Waste would be delivered to the main processing area by Rear End Loaders (REL) and bulkers. RELs would reverse into the external unloading area and tip through rapid open and closing enclosures into the feed stock below, whereas bulkers would enter the processing area through the most eastern entrance into Enclosure 1.
26. Large items of waste would be segregated from the feed stock by a waste grab. Waste is then transferred to shredder hoppers where a coarse shred is completed, before travelling via conveyor through magnets which remove ferrous and non-ferrous metals.
27. Residual waste would be transferred to a trommel, which would screen split the material into two fractions to remove the fines.
28. Larger fraction would be transferred via air splitters to a picking line to remove plastics and metals, leaving non-putrescible waste. This would then be segregated and shredded before being stockpiled for baling (if required) or transferred to bulkers for onward recovery.
29. The smaller fraction may be further treated via size segregation systems including flip flows and air separators leaving four waste streams, namely RDF, SRF, organic fines (<20 mm) and stone.
30. Organic Fraction would be removed from site typically within 24 hours from processing. Waste is typically fully processed within 24 hours of receipt into the facility.

Enclosure 2: Storage and Maintenance

31. Enclosure 2 would comprise what are currently IVC halls 3 to 6 and would be used for the storage of non-putrescible processed waste (plastics and other non-malodourous wastes) pending transfer, and maintenance of the operational plant. There would be no waste processing in this enclosure.

Enclosure 3: Mechanical Treatment of Plastics

32. Enclosure 3 would comprise the former composting screening and maturation hall, which would remain physically unaltered but be fitted out with a plastic recovery process, enabling plastics to be segregated and treated by type and thus suitable for onward recovery.
33. The plastics would first be segregated by type including polyethylene terephthalate (PET), low-density polyethylene (LDPE), High-density polyethylene (HDPE) and Polyvinyl chloride (PVC). The plastics would then be transferred into a coarse shredder before being dropped into a pre-washing tank and then wet ground. The reduced sized plastics are then transferred and cleaned through centrifuges, separators and a filer press. The cleaned and sized PET, HDPE and PVE are then transferred into bulking bags for onward

recovery, while LDPE is dried and moulded into pellets, ready for onward sale. Plastic film would be fully recovered and re-sold as a product for manufacturing.

Waste Sources and Outputs

34. According to the applicant, it is estimated that up to 125,000 of the proposed 150,000tpa capacity would comprise mixed municipal and residual waste sourced from various commercial waste contractors, waste authorities, and the applicant's existing contracts. The location of current confirmed suppliers of residual waste have been indicated by the applicant as within a 50-mile radius of the site.
35. The remaining 25,000tpa would comprise waste plastics, namely PET, LDPE, HPPE, and PVC. It is stated that the plastics would be sourced from Beuparc's established client base and would typically comprise wrap material used for transporting goods.
36. The outputs of the waste processes and their respective destinations following treatment are described by the applicant as follows:
 - Manufactured Refuse Derived Fuel (RDF) to be supplied to contracted facilities including an East Midlands based Energy from Waste; (EfW) Plant (R1 Compliant) and other regional EfW facilities as required;
 - Manufactured Solid Recovered Fuel (SRF) to be supplied to Beuparc's multiple off-take agreements;
 - Metals to be transferred to local metal salvage businesses;
 - Timber to be transferred for thermal recovery (biomass);
 - LDPE plastics to be fully recovered and pelletised for re-sale to the manufacturing market;
 - HDPE plastics to be chipped and washed for onward recovery;
 - Organic fines from the residual waste to be transferred off site for manufacture into compost like output;
 - Unrecoverable waste to be transferred to the Cotesbach landfill.
37. In terms of the RDF and SRF outputs, it is stated that the proposed strategy is to utilise Ferrybridge Multi-fuel Energy and Boston Energy Production Facility until the Drakelow Renewable Energy Centre (REC) is operational.

Building Modifications

38. The proposed modifications to the existing facility include:
 - Removal of underfloor air systems;
 - Re-cladding of defective sections of cladding;
 - Replacement of the existing doors in Enclosure 1 and replacement with rapid opening and shutting systems;
 - Full cladding on the eastern façade of the reception hall of Enclosure 1, removing one door;
 - Installation of air curtains over the Area 1 reception doors; and
 - Reconfiguration of condensate/leachate tanks for use as Fire water tanks;

- Sealing / grouting up of the in-vessel composting condensate drains, condensate/leachate collection systems and ventilation systems.

Operating Hours

39. The proposal involves changes to operating hours. The permitted hours of operation are set out below:

Except in emergencies to maintain safe working conditions (which shall be notified to the Director of Community Services as soon as practicable):

- a) *No deliveries, movement of plant or machinery outside of the buildings or export of composting materials from the site shall take place except between the following times:*

- *0730 hours and 1700 Monday to Friday; and*
- *0730 hours and 1400 hours Saturday*

and not at all on Sundays or Public or Bank Holidays with the exception of Good Friday.

- b) *No compost turning operations shall take place except between the following times:*

- *0730 hours and 1700 hours on any day.*

40. It is proposed that operational hours be extended to 24 hours a day, 7 days a week on a 3-shift basis, and that transport to and from the site be limited to 06:00 – 20:00 Monday to Saturday, and not at all on Sundays or Bank Holidays without the agreement of the Planning Authority. According to the applicant, it is anticipated that 94% of vehicles would operate between 07:00 – 18:00 hours.

HGV Movements

41. Heavy Goods Vehicle (HGV) movements are already permitted on the site and controlled by Condition 10 of planning permission 2012/0972/03. This condition stipulates that the number of HGV movements generated by the development shall not exceed 300 in any week.
42. There is no increase to the existing limit on HGV movements proposed as part of the current application.
43. The applicant has provided the following table to clarify the anticipated typical daily movements associated with the proposed change of use.

Table 5.1 Typical Daily Movements

Vehicle type	IN	OUT	Total
HGV (Residual waste/RDF)	15	15	30
HGV (Plastics)	8	8	16
Rear End Loader (REL)	4	4	8
Daily Total	27	27	54
Notes			
Daily movements will vary. These numbers represent a typical day. Weekly numbers will be restricted to 300. Vehicle types received will vary. The split presented is illustrative only.			

Planning Policy

National

44. 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.
45. Paragraph 2 states that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.
46. Paragraph 109 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
47. 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.
48. 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.

49. *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.
50. 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

51. 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 W7: Facilities for Energy and Value Recovery from Waste
- 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 DM10: Public Rights of Way;
- Policy DM11: Cumulative Impact.

52. Harborough Local Plan 2011 to 2031 (adopted April 2019):

- Policy GD1: Achieving Sustainable Development
- Policy GD3: Development in The Countryside;
- Policy GD8: Good Design in Development;
- Policy GI5: Biodiversity and Geodiversity;
- Policy CC1: Mitigating Climate Change;
- Policy IN2: Sustainable Transport

Consultations

53. **Harborough District Council (Planning):** Objection

Harborough District Council (HDC) refer to the considerable local objection to the application, and state that it is clear that residents in the locality felt that their living conditions were substantially compromised by odour, flies, noise and traffic generated by the facility when it was last in operation. HDC are

concerned that the proposed increase in waste, together with an expansion of operating hours, would have an unacceptably adverse impact on the amenities of local residents, contrary to Harborough District Local Plan policy GD8. In addition, HDC comment on the principle of development and refer to the original justification for the facility relying heavily on the relationship with the adjacent landfill site, which they state is no longer relevant as the majority of the treated waste will be derived from, and taken to, off-site locations. As these locations will be distant from the treatment plant, HDC regard the proposed development as unsustainable. It is their view that any intensification of the originally approved use would only perpetuate the existence of a facility which, without the previous co-location benefit with the adjoining landfill site, constitutes an anomalous, visually intrusive and unneighbourly development in an unsustainable rural location. HDC acknowledge the potential environmental benefits of recycling waste in the manner proposed but are of the opinion that these benefits do not override the harm caused by intensifying the use of the facility. HDC conclude by referring to the dismissed Appeal in 2014, which unsuccessfully sought to increase the amount of waste treated at the site.

54. Warwickshire County Council (Planning): No objection

Warwickshire County Council commenting as County (Minerals and Waste) Planning Authority stated that the site is sufficiently far away from the county boundary to mean that they would not wish to comment on the application from a planning point of view.

55. Harborough District Council (Environmental Health): No Objection

Noise

The Environmental Health Officer (EHO) requested further noise monitoring as it was considered that the primary monitoring location chosen by the applicant's acoustician was not representative enough to determine background levels typically experienced by residents. The EHO also considered that the time period (25 minutes) was insufficient and presented difficulties for comparing data.

The Applicant elected to undertake the requested additional noise monitoring work. Upon receipt of the additional work, the EHO's final comments were as follows:

"The applicant has provided additional baseline noise monitoring which suggests that at some noise sensitive premises, there is a likely indication of adverse impact although it is considered by the applicant that this is conservative based on lower background noise levels owing to the COVID pandemic (...) and using data from an existing MRF which has a greater throughput than the proposed.

As such, it is recommended by the applicant that they are subject to a condition which requires noise monitoring from the two enclosures during the commissioning and early periods of operation to assess the impact before main processing commences. In the event that an adverse impact is proven, additional acoustic measures will be implemented prior to full operation.

Given the uncertainty concerning the impact of noise, I am happy to support this approach and would request that, should planning consent be approved, that it is conditioned accordingly.”

Odour

Following review of the submitted Odour Assessment, the EHO raised several concerns including the categorisation of odour, use of meteorological data and the commitment to install a granular activated carbon filter (rather than including it as part of the proposal), and questioned the robustness of the work undertaken as a result.

The applicant provided additional information, and the EHO’s final comments on odour were as follows:

“I have read both the applicant’s odour assessment, Redmore Environmental’s review (employed by Shawell Parish Meeting and Cotesbach Parish Council) and ADM’s rebuttal.

In response, I advise you that I am happy to accept that the odour characterisation can be classed as “moderately offensive” and that the applicant is confident that the odour emissions concentration of 500 OUe/m³ from the biofilter can be achieved.

I would therefore advise that it is conditioned accordingly that that odour concentration from the biofiler shall not exceed a concentration of 500 OUe/m³. Should complaints be received, and at the request of the LPA, the applicant shall undertake odour concentration testing. Should odour exceed this level, the applicant is advised to take additional measures, and as they have highlighted, this may include the use of granular activated carbon (GAC)”

Pests

Following requests for additional information and clarification, the EHOs final comments in relation to pests were as follows:

“I understand that an MBT process is notorious for producing flies primarily due to the temperature material and the period of time it is stored. Having spoken with the applicant, I understand that the waste is removed from the site quite quickly and I am therefore satisfied that it is less likely that fly nuisance will occur. I further advise that it is highly likely that a condition on any environmental permit will require the applicant to have a pest management plan. As such, I do not consider it necessary for a condition to be placed on any planning approval.”

56. **Ecology (Leicestershire County Council):** No objection.

57. **Environment Agency:** No objection

The Environment Agency (EA) have no objections to the application in principle but did seek additional information in relation to drainage and potential impact on the Cave’s Inn Pits SSSI. The EA also recommended a condition requiring the submission of a detailed drainage strategy in the event

that planning permission were to be granted and provided advice to the applicant in respect of permitting.

The EA's waste team also offered specific comments in respect to odour:

"Firstly, we acknowledge the site's previous issues under former management through to 2016. The site was operated as a Mechanical Biological Treatment Plant (MBT) and this operation had a number of operational issues and received numerous complaints primarily for odour and as a result of this alongside other operational shortcomings, was mothballed. Between 01/01/2010 & 31/12/2016 the EA received:

Approx. 650 complaints relating to odour

Approx. 125 complaints relating to flies

The site has remained mothballed since its closure in 2016. This planning application is to now operate the site as a Materials Recycling Facility (MRF). A MRF by the nature of its operation is far less likely to produce odour than an MBT. The current plans are for an indoor operation. This again would limit odour. Operation indoors would also limit litter and pests, flies etc as the doors to the building would be closed unless deliveries were being received/removed. There is also plans to remove some of the exterior doors to limit routes odour could escape further. Therefore, we have no objection to the proposals providing the applicant applies for the relevant operational permits."

The requested additional information in relation to the Cave's Inn Pits SSSI was subsequently provided by the applicant and was considered by the EA to be sufficient.

58. Public Health England: No objection.

Public Health England notes that the main areas of potential public health concern are the potential for odour nuisance and concern from the storage and treatment of waste at the site. They refer to the Odour Assessment provided as part of the application and conclude that the applicant has shown the importance of meeting infrastructure criteria in protecting public health. PHE recommend that the planning authority consider conditioning the measures set out in the submitted Odour Assessment, as well as contacting the local authority public health team for matters relating to wider detriments of health associated with this development/proposal.

59. Natural England: No objection

Following receipt of requested additional information from the Applicant with respect to drainage and potential impact on the nearby Cave's Inn Pits SSSI, Natural England have no objections but consider that without appropriate mitigation, the proposal would damage or destroy the interest features for which the SSSI has been notified. In order to mitigate these adverse effects and make the development acceptable, Natural England consider that a pre-commencement condition requiring a detailed surface water drainage strategy is necessary, and that this should be approved by Natural England.

60. Landscape (Leicestershire County Council): No objection.

61. **Campaign to Protect Rural England (CPRE):** Objection.

CPRE question whether the location of the facility remains appropriate for the proposed change of use and raise concerns around the effect of HGV movements on the locality. CPRE state that the original justification for the facility is no longer relevant given that the treated waste will be primarily transported elsewhere, rather than to the adjacent landfill as originally permitted. They also question the sustainability of the proposals for this reason. Concerns around odour and flies are raised, particularly the lack of sufficient information provided on these matters. Noise and littering are also raised as concerns, especially given the proposal to extend hours which CPRE believe will add to existing noise nuisance and littering. CPRE reference the previous refusals on the site for increases in tonnages and note that they see no reason why the current proposal justifies consent. In their concluding remarks, it is noted that there are better sites for the proposed recovery operation where waste can be delivered by rail from distant locations, and that the benefits of consenting the operation as proposed are outweighed by the increased harm to a rural environment and that there is no case for expanding the facility.

CPRE acknowledge that refusing consent may result in redundant buildings which, in the absence of appropriate reuse, may harm the rural environment due to their lack of maintenance however they trust that a condition of the original approval was to restore the site (as with the quarry) in harmony with the local landscape when operations cease.

62. **Highways – Leicestershire County Council:** No objection

The Local Highway Authority (LHA) is satisfied that this development proposal will not lead to a significant intensification of development traffic when taking into account the consented fall-back position, given that the site's existing HGV routing agreement and restriction on the number of weekly HGV movements will be applied if planning permission is granted.

63. **Highways – Warwickshire County Council:** No objection.

64. **Footpaths - Leicestershire County Council:** Comments.

The Rights of Way Officer raised concerns about traffic intensification along Gibbet Lane within the proposed extended hours due to potential conflict with pedestrian, cyclist and horse rider traffic.

65. **Leicestershire & Rutland Bridleways Association:** Comments.

Leicestershire & Rutland Bridleways Association have made several comments and recommended several conditions.

Concerns are raised in respect to the potential impact of re-introducing the permitted HGV movements, particularly at Gibbet roundabout which is patronised by villagers who travel by foot. Concern is also raised about the proposed extension to operational hours and the introduction of HGVs during these times; 4.5 hours per day Monday to Friday and 7.5 hours on a Saturday,

as this will bring works traffic into conflict with leisure/recreational traffic. Finally, the generation of jobs and associated shift patterns has caused concern in terms of the spike of car movements it would cause.

The Association have recommended three conditions. The first seeks to ensure HGV driver etiquette along Gibbet Lane by requiring Beauparc and Tarmac to remind drivers to exercise great care along the country lane. The second requests an extension to footpath X27 further towards Shawell village. The third requests for the speed limit between Shawell Village and Gibbet roundabout to be reduced from 40 to 30mph.

66. **Highways England:** No objection.

67. **Shawell Parish Meeting:** Objection.

Due to lockdown restrictions during the coronavirus pandemic, Shawell Parish Meeting discussed the application at an informal virtual meeting on 27th May 2020, in which parishioners were briefed on the proposals. Forty-five e-mails were received by the Parish Meeting following that meeting, all wishing to object to the proposals. The coronavirus regulations were amended on 1st August and a formal Shawell Parish Meeting was held on 20th August. The decisions from the earlier meeting were agreed retrospectively and are recorded in the minutes of that meeting.

Shawell Parish Meeting and Cotesbach Parish Council submitted a combined representation which covered the following areas of concern: planning policy compliance, pests and flies, noise, litter, local amenity, cumulative impact, odour, flooding, and traffic. The representation is supplemented with a Peer Review of the submitted Odour Assessment, which was undertaken by qualified environmental scientists, as well as an objection letter from a professional planning consultancy which covered planning policy matters.

The Peer Review of the Odour Assessment outlines concerns over the robustness of the submitted assessment and concluded that it does not adequately demonstrate that adverse odour impacts will not occur as a result of emissions under the proposal. In particular, concern is raised over the exclusion of potentially significant odour sources as only emissions from the biofilter are assessed; exclusion of potential building downwash effects and associated variations in predicted odour impacts at sensitive receptor locations; the classification of potential odours as being 'moderately offensive' rather than 'most offensive' among other matters.

The objection letter from the planning consultancy refers to the history of refusals and dismissal of an appeal relating to the increase in waste throughput at the site, noting that although planning policy has been updated since those cases, the general thrust of policies relating to waste management is unchanged. The letter also covers sustainability and refers to a lack of co-location benefits, which justified the original permission but are now absent. In addition, amenity, highways and transport, odour and environment are presented as reasons to support refusal.

68. **Cotesbach Parish Council**

Following a virtual meeting with the Applicants on 3rd June, Cotesbach Parish Council hosted a virtual Parish Council meeting to discuss the application on 5th June. Approximately 15 members of the public attended.

In addition to the combined submission with Shawell Parish Meeting outlined above, Cotesbach Parish Council also provided their own additional separate letter of objection. Key concerns included lack of policy compliance including the unknown source of wastes to be processed at the facility, and the distance that the facility's outputs will travel following treatment in Cotesbach. The Parish Council also raised concerns around cumulative impact given the existing and proposed extensions to quarrying activity, the detrimental environmental impact from odour, and the impact on local footpaths.

69. Newton and Biggin Parish Council: Objection.

Newton and Biggin Parish Council have objected in their capacity as a neighbouring parish on environmental, planning policy and highway grounds. The parish state that the proposals may be detrimental to the local area as well as harmful to the wider environment. It is suggested that it was a mistake to allow the previous waste disposal use in this location and the parish refer to the well-documented nuisances caused to residents of Shawell. It is the Parish Council's opinion that allowing the site's re-opening would be compounding that initial mistake. Reference is also made to planning policy and the aims of locating waste facilities close to the point of generation, and the Parish Council states that any advantage gained from recycling would be more than off-set if the material is driven hundreds of miles to the site. It is also stated that damage caused to Gibbet Lane and its junction with the A5 roundabout demonstrates that the road is inadequate to cope with existing lorry movements.

Publicity

70. Notices published in a local newspaper, a site notice, and individual neighbour letters have advertised the proposal since 18th May 2020. In addition, an electronic copy of the site notice was e-mailed to both Cotesbach and Shawell Parish Councils on 19th May 2020 to circulate, given the wider circumstances around Covid-19 and the potential for people to be self-isolating during the time when the physical site notice was on display.

Representations

71. A total of 242 representations have been received from the public. Of these representations, 240 are objections, one is neutral, and one is in support. With respect to the objections, concerns cover the following topics:

Highways

Concern is raised over the number of HGV movements and road safety in respect to other vehicle users and pedestrians, and the capacity of Gibbet Lane, which is a narrow single carriageway without road markings and poor visibility. Gibbet Roundabout is described as congested and made worse by HGVs blocking the entrance to the petrol station as they join the roundabout.

The proposed increased size/weight of HGVs is also a concern, and the effects this might have in terms of wear and tear on Gibbet Lane – for example, potholes. Concern is also raised about HGVs parking on the road verges and adjacent to the facility, sometimes several in a row awaiting opening times.

Odour and pests

The previous use caused intense odour and fly infestations, and the prevailing wind blows from the facility towards Shawell village, making the lives of residents in the village miserable. This is reflected by approximately 775 complaints to the EA during the site's operational use, between 2010 and 2016. Large rats are also referenced as being seen in the road outside of the facility on a regular basis.

Noise

The proposed 24/7 operation would cause unacceptable noise and disturbance, particularly at night, both in terms of operations and traffic. The noise survey is considered to be inaccurate due to taking operational baselines from a dormant site. Reference is also made to the existing industries on Gibbet Lane having working time restrictions.

Amenity and Health

The proximity to residential dwellings is cited as a key concern, as the closest is circa 450m away from the site. The proposed extended hours are an unwelcome change. The wellbeing and overall quality of life of the local community is a concern, considering the stress caused from previous long-term problems at the site such as odour and fly infestations. Litter on Gibbet Lane is a problem from existing HGVs and encourages further fly tipping and is all visible from the public right of way. Pollution in terms of noise, smell and flying insects have not been considered in full. There are health concerns around the heating of plastics and potential poor air quality.

Natural Environment and Ecology

Impact on the character, appearance and nature conservation of the area. The site is described as having an increase in wildlife in the last couple of years, and surrounding land has been returning to agriculture. Wildlife that has been observed as returning to the site includes Muntjac deer, buzzards, and breeding pairs of Red Kites. Pollution of the countryside and impact on crops are also raised.

Public Rights of Way

The bridle path on Gibbet Lane is described as difficult to access due to existing traffic movements. Odour also impacts enjoyment of footpaths.

Planning Policy

The proposal is described as contravening the Development Plan and

previous decisions on the site including appeals. The proposal does not meet the requirements for either a strategic or non-strategic waste facility based on policies W3 and W4, nor does it offer an overriding need. The application seeks to import/export beyond county boundaries, in conflict with the Plan.

Cumulative Impact

Concern is raised about the combined effects of the quarry, landfill, motorways, wind farm and waste facility, as well as the nearby expansion of Magna Park and 'DIRFT'. Various other developments in the locality are referenced as contributing to cumulative impact. Air pollution arising from the facility in combination with the M1 and M6 is raised as a concern.

Sustainability

The development is described as seeking to improve one sustainability target at the detriment of others. There does not appear to be any environmental survey conducted. The proposal to sort waste from all over the country does not benefit the environment but creates more road traffic and pollution.

Need/Economic

There is no need or requirement for the facility in this location; no cost-benefit for the development has been provided; alternative viable sites should be explored; the employee numbers are low and will have little benefit to the district; the two previous companies that operated the facility have ceased to exist; impact on local businesses that rely on outdoor recreation, dining, etc.

Other

There was no public consultation carried out prior to submission; lack of Environmental Impact Assessment; difficult for the community to discuss the application in lockdown; impact on Shawell Conservation Area; lack of trust towards applicant; existing complaints not being acted on by Leicestershire County Council including litter and traffic.

72. The comment in support was based on the environmental benefits of the proposed plastic recycling process as an alternative to sending waste to landfill or abroad.
73. Mr Blake Pain CC (Bruntingthorpe Division) has provided the following comments:

"I understand that the application aims to change an existing mechanical biological treatment facility to a material recovery facility with a significant increase in waste throughput from 50,000 to 150,000 tonnes per annum. I also understand that the proposal is for existing operating hours to be extended.

I would question the suitability of having such a strategic facility in this location and whether it conflicts with the County Council's Minerals and Waste Policy. I would also query the justification for such a facility at this location and whether the proposed operation is sustainable, again taking into account compatibility

with the County Council's policies but also the District Council's Local Plan. When I ask about sustainability, I am having regard to the sources of waste and outputs from the facility.

Waste should be sorted close to arisings before being transported to end destinations, to minimise road / HGV transport / carbon emissions. Previous planning applications to expand this site have been refused. Other businesses have been refused permission to expand their operations on this "greenfield" site, too.

Exactly what assurances will be required from the applicant in respect of the impact of the proposed facility in terms of smell, noise and any insect infestation? Noise during the evenings has to be a particular consideration. It is my understanding that over 700 complaints were made to the Environment Agency when the plant operated previously - Odour, Flies and Noise. Litter is a particular problem in a rural environment; once it escapes from the HGVs – as it easily does, plastic in particular remains in the hedgerows, trees and undergrowth for years. Existing conditions and enforcement agencies have not been able contain this problem.

I would like an explanation of the potential impact of this proposed facility within the wider Shawell quarry/landfill site and whether it is compatible with the County Council's Minerals and Waste Policy. What impact of the application would there be on public rights of way?

Finally, I would like clarification in respect of proposed HGV movements in comparison with the existing permissions for them. HGV traffic around Gibbet Roundabout (A5 / A426) has reached capacity. Gibbet Lane is not accessible to non-vehicular road users during current working hours. Shawell's village lanes have become relief roads to the congested roundabout.

This is an application which concerns me as the local member, and I know how strongly local residents feel. In my capacity as the County Councillor for the division, I would ask that the committee resolve to reject this application forthwith."

74. The local district Member, Cllr Jonathan Bateman, has provided the following comments:

"As Ward Member for Harborough District Council I formally object to this application. I do not believe the application is compliant with the LCC Waste and Minerals Policy which clearly states waste processing facilities should process locally produced waste, not that that is brought in from across the UK. In addition, I am not satisfied that an up to date and relevant assessment of current traffic levels has been undertaken since the extant permission of 300 HGV movements was permitted. I note that less than 20% of the 150k tonnes of waste is destined for recycling, which amounts to 30k tonnes, leaving an immense 120k tonnes destined for the landfill site, when the site was previously in use, the amount of landfill was substantially less, yet the local area was plagued by flies and foul odour, I do not believe that the applicants have satisfactorily answered these issues, and I am surprised that an independent Environmental Impact Assessment was not requested by the LCC rather than relying on the applicants own commissioned report. In closing

I fully support all the objections to this application and would ask that the authority refuse it.”

75. Cllr Tony Hirons, Orchard Ward, Lutterworth Town Council, has provided the following comments:

“I wish to object in the strongest possible terms to this application for two reasons.

1. 300 Weekly vehicle Movements. Lutterworth High Street (A426) is already one of the most polluted areas in Leicestershire, something which your current plans for 2,750 extra houses (Lutterworth East) will only worsen.
2. Where do you expect to recruit labour for this facility from? The Magna Park Distribution Centre (less than 2 miles from Shawell) already pulls in workers from Coventry, Birmingham & Staffordshire. Lutterworth & surrounding areas has effectively 0% unemployment - so where will you recruit?”

76. Alberto Costa MP, South Leicestershire, has provided the following comments:

“I, like many of my constituents, are of the opinion that approval of this application would be of significant detriment to the historic, rural village of Shawell and its nearby infrastructure. For ease, I have more fully outlined the reasons for my objection below:

1. The application in question contravenes Leicestershire County Council’s Minerals and Waste Local Plan in that - a) Facilities should be located near to waste arisings (typically near urban areas, not rural areas) – b) Road transport should be minimised, however the applicant’s own application states that ‘black bag’ waste will be imported from Lincolnshire, Nottinghamshire and Derbyshire and that plastic waste will come from the ‘M62 Corridor’ and North of London – c) There is no advantage of the co-location with the existing Shawell Landfill as a significant portion of the 150,000 tonnes mentioned in the planning application will be further transported elsewhere – d) the importing of waste via HGVs into the proposed site will increase the County’s carbon emissions.
2. The site, if approved, will bring much greater levels of HGV traffic through the already congested Gibbet Roundabout.
3. The site, if approved, will have a significantly detrimental impact on the environment both within the Shawell village locality and the wider Leicestershire area in that – a) 775 complaints were made to the Environment Agency about foul odours and fly infestations during the site’s previous operational use – b) An increase, of a likely considerable degree, of carbon emissions in the Shawell village locality, therefore detrimentally impacting air quality for inhabitants and wildlife.”

Assessment of Proposal

77. 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, sustainability of the proposed operation, and effects upon amenity in terms of odour, pests and noise given the site's close proximity to sensitive receptors.

General Location and Policy

78. One of the principal aims of the Leicestershire Minerals and Waste Local Plan (MWLP) is to direct waste developments to specific, sustainable areas of the county. The proposal is for the change of use of an existing Mechanical Biological Treatment (MBT) to a Material Recovery Facility (MRF) and to extend the throughput from 50,000 to 150,000 tonnes per annum. It is considered that the proposed development constitutes a strategic facility, taking into account the definition of 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.
79. Policy W3 states that planning permission for strategic sites will be granted provided that they are 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.
80. The applicant is of the opinion that the provisions of policy W3 are immaterial and not of significance in the determination of this application on the basis that the proposed development does not introduce any new waste stream or associated vehicle movement beyond consented levels. However, all waste planning applications are considered against policy W3. The matters raised may constitute material considerations to balance against policy W3, but they do not render the policy immaterial and the need to assess the application against policy W3 remains.
81. The applicant states that the proposal complies with policy W7: Facilities for Energy and Recovery from Waste. Policy W7 offers support for waste management facilities that would provide for energy or value recovery from waste, provided that the criteria within the policy are met. It is considered that the proposal is in accordance with this policy.
82. The application refers to policy W9: Safeguarding Waste Management Facilities and indicates that the proposed development complies with this policy. However, this policy is not considered relevant in this case given the extant permission for a waste use on the site and the fact that the proposed development is not seeking to introduce a non-waste use.

Principal of Development

83. The applicant states that, due to the extant permission being granted in 2008 (2008/0789/03), the principle of processing household, commercial and industrial wastes at the site for reuse, recovery and/or recycling has long been established, and that the proposed change of use presents no significant diversion from the long-standing use of the site.

84. However, the wider site is principally a minerals development, with a restoration requirement for the land secured by planning permission 2006/1565/03. The existing MBT facility is subservient to this wider permission and was permitted for a temporary period (albeit 35 to 40 years) on the basis that there were clear transport and operational benefits to locating the facility adjacent to the operational landfill. One such benefit was that the principal output of the facility (a compost-like output) would be used in restoring the adjacent landfill and that any rejected material would also go into the adjacent landfill. The compost-like output material would not be sold off site and would only be used in the restoration of the adjacent landfill site. The application was determined on the basis that HGVs delivering waste to the composting site would otherwise travel directly to the landfill, thus there would be no net additional vehicle movements associated with the proposed development bar one HGV lorry a day exporting recyclables.
85. Subsequent applications and decisions on the site, including an appeal dismissal in 2014, have confirmed that the co-location benefits, namely the compost-like output being used to restore the adjacent landfill, have never materialised. The most recent application on the site, 2013/0809/03, made clear that the compost-like output had never been used at the adjacent landfill and, under the current restoration scheme, could not be. At the time of that application, only 10% of the output from the facility was sent to the landfill rather than the 85% originally envisaged in the 2008 application.
86. The proposal today involves waste being transported by road from a number of unconfirmed sources at varying distances from the site. Therefore, there is far less certainty that the waste would otherwise go into the adjacent landfill than the original 2008 application.
87. The vast majority of waste outputs (98%) are proposed to be sent off-site following processing for onward recovery or sale, again to a number of different locations, some at a considerable distance from the site. For example, the Ferrybridge Multi-fuel facility is located approximately 90 miles (as the crow flies) north of the application site, and Boston Energy is approximately 104 miles north east. The Drakelow site is approximately 40 miles north west. The proposed strategy to only use the former two sites until Drakelow is operational is undermined by the fact that Drakelow is currently the subject of a planning application with Derbyshire County Council, which was only validated in May 2020. There is no guarantee that this site will be permitted, never mind operational, and even if it is, the timescales involved would likely entail a substantial period of time in which RDF/SDF would have to be transported by road to facilities between 90 and 104 miles away from the site.
88. Therefore, the co-location benefits that justified the extant permission have significantly diminished since the original application, which is reflected by subsequent refusals on the site, and the proposed change of use today presents a further divergence from the original underlying location benefits of the facility's location.
89. The NPPF requires planning to contribute to the achievement of sustainable development. The spatial strategy within the MWLP is up-to-date and was drawn up with the principle of locating waste sites in a sustainable pattern of

development, i.e. near to arisings. This proposal does not meet the locational principles of the MWLP, and it is considered an unsustainable rural location unsuitable for further expansion (in terms of throughput) and for the proposed change of use, which entails unsustainable waste sources and outputs.

Need

90. The MWLP 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 (2015 – 2031) and predict that, in the main, sufficient capacity is already permitted as of September 2019 to handle the waste requiring management.
91. Furthermore, there is an extant permission for a strategic facility that has the potential to enable the recovery of 350,000tpa of Commercial & Industrial and Local Authority Collected Waste just 23 miles north-west of the site in Shepshed (Newhurst EfW), and this site began construction in February 2020. Having regard to this, it is considered that there is sufficient capacity within Leicestershire for waste management facilities of this nature.
92. The application states that there is no specific requirement to demonstrate a need for the increased throughput proposed because it is already accounted for within the permitted tonnages of the landfill and composting facility when combined. The applicant describes this as a re-allocation of permitted tonnages between the two facilities. However, the permitted throughput for the two sites are divorced from each other. Their respective planning permissions are separate and unique entities and it cannot be assumed that the proposed increase in throughput is a diversion of the waste stream into the adjacent landfill.
93. National planning policy sets out the requirement to move waste further up the hierarchy away from landfill/disposal. The proposal would assist in achieving this, and there would be commensurate reductions in greenhouse gas emissions when considering a diversion from landfill to recovery in isolation. However, this does not outweigh other considerations and there is no overriding and immediate need for this proposal.
94. The applicant states that the failings of the previous operator are due to the restricted tonnage of the extant planning permission, which renders a waste recovery operation at this site as unviable. It is also stated that the restrictive locational policies will mean that the site remains dormant and fall into disrepair unless flexibility is afforded in the determination of this planning application. However, during the determination of this planning application, it was confirmed by the applicant that the site would become operational again regardless, either under the extant permission or a new one. Therefore, no weight can be afforded to this argument of viability as a material consideration in the determination of this application.

Legal Agreement

95. The applicant has proposed during the determination of the application to enter into a legal agreement with the operator of the adjacent landfill (Tarmac)

and Leicestershire County Council to ensure that, in the event of planning permission being granted, any additional throughput above what is currently permitted would comprise waste that would have otherwise gone to the adjacent landfill, resulting in no net increase in waste arriving at the wider Cotesbach site when considered as a whole. In effect this would secure the envisaged re-allocation of tonnages between the two sites.

96. However, the application outlines how the waste is intended to be sourced, and includes reference to commercial waste contractors, waste authorities, and the applicant's existing contracts; the former two being unconfirmed. This indicates that the facility would be serviced by a different waste stream to the adjacent landfill.
97. In view of the above, it is not clear how the proposed development will result in a direct diversion of the adjacent landfill's waste stream, with or without a legal agreement in place. Although it is accepted that some of the waste received would have otherwise ended up in a landfill, based on the information submitted, it is likely that the proposed development would introduce new waste streams to this site from distant sources, rather than represent a direct diversion of waste from the adjoining landfill. The proposal also involves exporting the vast majority of outputs for onward processing, recovery or sale and is therefore considered and so in this respect would be a significant diversion from the permitted use of the site.

Climate Change

98. A key justification presented for the proposed development is the wider environmental benefits of the proposed operation in terms of mitigating climate change.
99. The application refers to the environmental impact of landfilling, and states that the increased throughput sought would otherwise likely be sent to landfill. It is agreed that landfill is a potential alternative destination for the waste, and that the proposal represents an opportunity to move up to 100,000 tonnes of waste per annum up the waste hierarchy, in line with the NPPW. This is considered to be a benefit of the proposal and is a material consideration in its favour. However, the waste sources outlined as part of this application are diverse and widespread. It is uncertain that the waste would have ended up at the adjacent landfill, as opposed to a landfill or alternative waste facility closer to the source. The potential environmental impact associated with the distance travelled by road between sources, the site, and the destinations of the outputs weigh against the proposal and undermine the presumed co-location benefits.
100. The application proposes the uplift of annual throughput without cause to increase permitted HGV movement, and states that the proposed operation would be carbon neutral for this reason. Although the proposal does not seek to alter the permitted number of HGV movements, it is clear that HGVs would travel further distances (both to and from the site) in comparison with the extant use, which was permitted on the basis that movements would comprise those already destined for the adjacent landfill thus there would be no net gain for the wider site other than 1 HGV lorry leaving the site each working day with recyclates; a benefit that was never proven. The proposed change of use is

therefore considered likely to increase HGV mileage and associated emissions, contrary to Policy DM1: Sustainable Development, which seeks the provision of clear evidence of how a proposal would make a positive contribution to reducing its effects on climate change, and policy DM2 which requires applicants to demonstrate that potential effects from emissions and traffic (among other criteria) would be acceptable.

101. The applicant describes the plastic recovery operation as providing a significant climate benefit, given that the provision of a recycled product reduces the reliance on non-renewable resources. It is recognised that the plastic recovery element of the proposed operation offers environmental benefits by facilitating the movement of waste up the waste hierarchy from disposal to recovery. However, it is also noted that waste plastic is only anticipated to apply to 25,000tpa of the 150,000tpa throughput sought (i.e. 16.7%). Furthermore, the extant permission already allows for the recovery of plastic and metals for onward recovery and recycling, which was stated as accounting for 15% of the throughput within the 2008 application.
102. Finally, the site is not sustainably located, therefore the proposed uplift in employees is likely to represent an uplift in unsustainable transportation modes. This is evidenced by the proposed increase in car parking spaces from 6 to 18.

Environmental Considerations

Odour

103. The NPPW states that Waste Planning Authorities should concern themselves with implementing the 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.
104. Whilst odour is therefore primarily a matter for the Environment Agency to regulate through the Environmental Permit process, it is also a material consideration in the assessment of this planning application given the potential for impact on amenity. This is assessed against policy DM2 of the MWLP which requires applicants to demonstrate that the potential effects from odour (among other criteria) to adjoining land uses and users and those in proximity to the proposal would be acceptable.
105. During its operational years (2010-16), the facility gave rise to unacceptable levels of odour which resulted in significant adverse impact on the amenity of local residents. This is evidenced by the number of complaints received by the Environment Agency during this time which totalled 650 between 01/01/2010 and 31/12/2016.
106. An Odour Assessment has been submitted in support of the application, which takes the view that the magnitude and nature of odours generated from the facility will be entirely different to those that occurred from the composting use. The assessment concludes that predicted concentrations for the proposed facility show that the impact is 'slight' at worst, and not likely to give rise to annoyance due to the emissions of odours. However, it is stated that the

predictions assume an odour emissions concentration from the biofilter of 500 $\text{OU}_e \text{ m}^{-3}$ and that, if the biofilter does not achieve this concentration, a granular activated carbon (GAC) filter will be installed between the scrubber and the biofilter to ensure that the emission concentration of 500 $\text{OU}_e \text{ m}^{-3}$ is achieved.

107. The EHO raised concerns around the robustness of the report, primarily around the classification of the dominant odour from a biofilter as being “less offensive” rather than “moderately offensive”. The EHO also commented on the inclusion of the GAC filter as being open ended and providing uncertainty of the robustness of the report. The EHO also queried the reference to local weather data and lack of information about the topography of the site which has a bearing on how odour disperses and dissipates from the site. The EHO subsequently requested additional information on several points.
108. The combined representation submitted by Shawell Parish Meeting and Cotesbach Parish Council was supported by a commissioned Peer Review of the submitted Odour Assessment. This Peer Review also identified concerns around the robustness of the assessment and concluded that it does not adequately demonstrate that adverse odour impacts will not occur as a result of emissions under the proposed change of use. Reasons for this view included:
- only impacts associated with the biofilter are considered thus a number of potentially significant odour sources are excluded;
 - lack of quantification of potential building downwash effects and associated variations in predicted impacts at nearby sensitive receptors;
 - the use of the EA benchmark level 'moderately offensive' for odours is considered inappropriate, and 'most offensive' is suggested as applicable;
 - lack of sufficient justification that the odour concentration utilised to determine the emission rate for the biofilter is representative of proposed operations;
 - lack of explanation of how the potential abatement performance of the biofilter has been calculated and evidence to support the assumption that the biofilter will consistently achieve the stated concentration;
 - use of assumptions which are considered likely to result in underestimation of potential odour impacts at sensitive locations in the vicinity of the site.
109. The applicant and their odour consultant provided individual responses to the EHO's comments and peer review, and they concluded that the findings of the odour assessment remain valid.
110. The applicant contends that by virtue of the proposed change of use away from biological treatment to material recovery, the magnitude and nature of odours generated from the facility will be entirely different from those that occurred as a result of the previous process i.e. composting. This is a view that has not been challenged by the EHO or in the peer review, and it is a view that is accepted by the Environment Agency (EA).
111. The EA stated in their consultation response that a Materials Recycling Facility

(MRF), by the nature of its operation, is far less likely to produce odour than a Mechanical Biological Treatment Plan (MBT). The EA note the plans to remove some of the exterior doors to limit routes that odour could escape further, and offer no objections in principle to the scheme, but offer advice to the applicant with respect to Environmental Permitting.

112. Although there were concerns with the robustness of the odour assessment work provided, on the basis of the evidence submitted by the applicant and the advice of the statutory consultees, it is considered that the proposed development is far less likely to result in an unacceptable impact in terms of odour by virtue of the proposed change of use away from biological treatment (i.e. composting). It is therefore considered that the proposal complies the requirements of policy DM2 in this regard.

Pests

113. Many of the representations received during the public consultation include reference to pests. Local residents have reported fly infestations in their homes that occurred during the previous use (and photographic evidence has been provided), and several representations describe sightings of large rats around the facility.
114. The Environment Agency has confirmed that they received approximately 125 complaints about the facility which related to flies between 01/01/2010 and 31/12/2016. However, the change of use represents a move away from composting to material recovery, which they consider less likely to cause nuisance in terms of odour and pests.
115. The EHO sought additional detail in relation to flies as they were not satisfied with the statement that a plan will be implemented. The EHO stated that they were not necessarily concerned about rats as they are less likely to deviate towards local residents; a view that is supported by the representations which identified rats as occurring on Gibbet Lane rather than in the vicinity of residential properties.
116. The applicant provided further details about the likelihood of flies occurring. The response outlined that the previous composting use generated a 'near-perfect' environment for flies to accumulate, as it was a warm and humid and provided a food source. It went on to describe how bio-fines were held on site for over 50 days, and as the period from egg-laying to hatching is typically 5-7 days, any lapse in control regimes would result in a surge in fly numbers. It is then stated that this application removes the composting process, thus malodorous and organic putrescible waste will not be retained on site for more than 48 hours, typically being dispatched within 24 hours. As such, the applicant states there is no time for eggs to be laid, larvae to appear and then flies to emerge, and that the risk of an increase in flies from the facility is considered low to negligible. The applicant concludes by stating that the facility will be run with a pest management plan, which would include rats, birds and flies and a control regime including escalation measures will be put in place for all these items.
117. Subsequently, the EHO does not object on the ground of pests. On the basis of the evidence submitted by the applicant and the advice of the statutory

consultees, it is considered that the proposed development is far less likely to result in an unacceptable impact in terms of pests by virtue of the proposed change of use away from biological treatment (i.e. composting).

Noise

118. The proposal has the potential to generate nuisance noise emissions from on-site operations and associated HGV movements due to the proposed extension to operating hours.
119. The site is located approximately 400m from the nearest residential receptors, which are Holme Close Farm and Littledene, which are south-east of the site on Gibbet Lane.
120. A Noise Assessment has been submitted in support of the planning application, which comprises noise surveys, a noise impact assessment and proposed mitigation measures.
121. The noise surveys were undertaken at five locations (receptors) to establish the background and operational noise levels at noise sensitive premises during operational hours. A sound level meter was set up along the southern boundary of the site, approximately 22m from the carriageway edge of Gibbet Lane, to monitor ambient and background noise levels continuously from 1606 hours on Friday 6th to 1615 hours on Monday 9th March 2020. Further sample attended measurements were undertaken during Monday 9th March 2020 at four positions considered representative of the closest dwellings to the site.
122. The assessment concludes that, for all receptors, the noise levels associated with the proposed operations lie below the respective typical day and night-time background noise levels. This is stated to be an indication of the specific sound source having a low impact. It is concluded that it is unlikely that the site operations will significantly affect the noise climate at any local receptor. Mitigation measures have been offered, most of which relate to working procedures such as staff training and regular checks of equipment. Additional measures include vehicle route surfaces being maintained and white noise or equivalent being implemented on all site-based vehicles.
123. The EHO raised concerns about the robustness of the Noise Assessment. One concern was that a fifteen-minute measurement taken at a receptor at mid-day is not sufficient to determine that a -4dB reduction should apply for daytime and evening noise levels. The EHO was also concerned by the claim that the acoustician was unable to secure noise equipment at residential properties and requested further background noise monitoring at locations identified as sensitive so that the impact can be suitably addressed.
124. Upon receipt of the additional noise monitoring work, the EHO was satisfied that the development could be made acceptable subject to appropriate conditions requiring noise monitoring from the two enclosures during the commissioning and early periods of operation to assess the impact before main processing commences. In the event that an adverse impact is proven, additional acoustic measures will be implemented prior to full operation.
125. On the basis of the work submitted by the applicant and the advice of the

statutory consultees, it is considered that the proposed development could be made acceptable in terms of noise through the implementation of an appropriate condition. It is therefore considered that the proposal complies the requirements of policy DM2 in this regard.

Cumulative Impact

126. Given the facility's location within a wider minerals and waste site, there is potential for cumulative impacts to arise as a result of the proposal. Due to the site's extant permission to operate as a MBT facility, this potential impact is considered to be limited to effects arising from the increased throughput and extended operating hours. This is assessed against policy DM11 of the MWLP which requires applicants to demonstrate that cumulative impacts on the environment or amenity of a local community, either in relation to the collective effect of different impacts of an individual proposal, or in relation to the effects of a number of developments occurring either concurrently or successively, would be acceptable.
127. Under the proposed hours, the facility would operate internally at all hours, and permitted HGV hours would exceed the times when HGVs operate in association with adjacent uses. Therefore, there is potential for the proposal to introduce nuisance noise and traffic at unsociable times and impact upon local amenity as a result of operations occurring successively across the wider site.
128. Despite the proposed introduction of operational and traffic related noise beyond currently permitted hours, it is considered that the noise assessment undertaken in support of this application satisfactorily demonstrates that this noise would be within acceptable levels taking into account noise from neighbouring operations.
129. Whilst there is no increase in HGV numbers proposed, there would be traffic movements introduced at new times of day. While it is considered that there is some harm associated with this, on balance, the extension of hours is likely to result in the permitted movements being more spread out across the day.
130. The proposal does not therefore conflict with the requirements of policy DM11.

Ecology

131. No protected species have been recorded in the immediate vicinity of the site. Therefore, there is little opportunity for protected species to be present. There are no sites designated at national, international or local level for their ecological importance within the site. There is a Local Wildlife Site (LWS) in close proximity, approximately 35m south of the site beyond Gibbet Lane.
132. Several of the public representations received objected on the grounds of harm to wildlife that has been returning to site during the facility's inactive period. Reference has been made to sightings of muntjac deer, buzzards, and breeding pairs of Red Kites. The County Ecologist has advised that muntjac is a non-native deer that has no conservation protection status, and red kite and buzzards are now common sightings across Leicestershire and Warwickshire, and may be nesting in the vicinity of the site, but that the former (now restored)

quarry habitats and other surrounding land provide good habitats for them. Therefore, it is the County Ecologist's view that these species would not be adversely affected by the proposed change of use, and that it would not be appropriate to require mitigation in this respect.

133. The nearest designated site at a national level to the site is the Cave's Inn Pits SSSI (Site of Special Scientific Interest) approximately one kilometre south of the facility. The site was notified as a SSSI because it contains some of the best remaining areas of neutral marsh in Leicestershire. Therefore, its status is afforded due to the interest that has colonised land with low nutrient levels. Natural England is satisfied that the proposal would not damage or destroy the Cave's Inn Pits SSSI.
134. The proposal is unlikely to have a negative effect on biodiversity and meets the requirements of Section 40 of the Natural Environment and Rural Communities Act 2006 to have regard to the conservation of biodiversity. Similarly, the requirements of the Habitats Directive and the Wildlife and Countryside Act 1981 have been met. On this basis the proposal is acceptable in terms of ecology and meets the requirements of policy DM7 of the MWLP and policy GI5 of Harborough's Local Plan.

Economy

135. The proposal has the potential to create economic benefit, both in terms of employment and supporting wider economic growth. Policy DM1 of the MWLP aims to secure development that improves the economic, social and environmental conditions in the county.
136. If permitted, there would be some construction work created to modify the enclosures. The application states that returning the site to an active use and extending the hours of operation would generate 30 new employment opportunities, and that the applicant operate a policy of recruiting locally at their waste sites, offering direct employment to the local population. At a national level, the applicant refers to plastics recycling often being sub-contracted to economies with lower labour costs, implying the benefits of establishing this facility in the UK.
137. Weight should be afforded to the employment and wider economic benefits of the proposal. Harborough's Local Plan supports Rural Economic Development under policy BE1, but only where sites are within or well related to rural centres or selected rural villages. Neither Shawell nor Cotesbach meet the criteria for either. Regardless, this policy sets out the District's spatial strategy for employment development and is not considered a key policy in this determination; there are more relevant policies relating to the spatial strategy for waste facilities in the MWLP, namely policy W3.

Operating Hours

138. The permitted operating hours control deliveries, movement of plant or machinery outside of the buildings, and export of composting materials from the site. They are between 0730 – 1700 hours Monday to Friday and 0730 – 1400 hours Saturday, and not at all on Sundays or public/bank holidays (with the exception of Good Friday). Within these times, compost turning operations

are limited to 0730 – 1700 on any day.

139. The proposed change to the hours is to operate 24 hours a day, 7 days a week but limit transport to and from the site to 0600 to 2000 hours Monday to Saturday, and no transport to and from the site on Sundays or Bank Holidays without the agreement of the Planning Authority.
140. The proposed operating hours therefore effectively represent an increase of 14.5 hours a day Monday – Friday and 17.5 hours on Saturdays, as well as an increase in permitted HGV movement times by 4.5 hours a day Monday – Friday and 7.5 hours a day on Saturdays. By comparison, the adjacent landfill/mineral extraction and related processing operations run by Tarmac are permitted to operate between 07:00 and 19:00 Monday to Friday but not public/bank holidays (with the exception of Good Friday). The proposed change in the hours of operation would therefore far exceed the consented hours at adjacent operations.
141. The applicant states that, despite the proposed limits of transport being 0600 to 2000 hours Monday to Saturday, 94% of vehicles would operate between 0700 and 1800 hours. However, this assurance cannot be conditioned, as a condition would not meet the tests as set out in paragraph 55 of the NPPF. Specifically, the condition would not be enforceable or reasonable. Therefore, there is no practical means of ensuring that 94% of HGs would operate within the suggested times. Regardless, the assurance still entails regular levels of HGV traffic being introduced at hours exceeding those currently permitted (i.e. earlier than 0730 and later than 1700).
142. Leicestershire & Rutland Bridleways Association have raised concern about this, particularly around the fact that it would bring works traffic (HGVs) into conflict with leisure/recreational traffic. They also raised concern about the traffic effects of the shift changes, which could be 3 x 9hr shifts to cover the 24/7 operation of the plant.
143. The expansion of operations outside of existing working hours at the Shawell quarry/landfill site and consent to operate 24 hours could result in some additional traffic movements between 06:00 and 07:30, and between 17:00 and 20:00. However, it is also recognised that there is no increase in proposed HGV numbers compared to the existing operations, which means that permitted HGV movements may be spread over a longer period, thereby reducing their intensity. Furthermore, it is noted that the EHO and Highways Authority do not raise concerns about the amended hours of operation.

Conclusion

144. This proposal is seeking to change the use of an existing Mechanical Biological Treatment Facility to a Material Recovery Facility and increase its throughput from 50,000 to 150,000 tonnes per annum. An extension to the permitted operating hours is sought, as well as minor modifications to the existing buildings and an increase in parking spaces from 6 to 18.
145. The planning application and accompanying assessments, together with further information that has been submitted, provide the information necessary to assess the likely environmental effects of the development fully.

146. The development would conflict with 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 it is not located in or around the Broad Locations identified in Policy W3. Instead, the site is located in a greenfield, countryside location, albeit within a quarry complex.
147. The benefits of co-location with the adjacent landfill site that were described in the original application are now largely absent, given that only an estimated 2% of waste outputs would be delivered to the adjacent landfill, and none for restoration purposes. The proposed use relies on sourcing wastes from within a 50-mile radius, and then exporting around 98% of the outputs once processed. The site is in an unsustainable location poorly served by sustainable transport choices therefore this movement of waste would rely on road transport by HGVs.
148. The applicant states that any increase in throughput would represent a direct diversion from the adjacent landfill's waste stream, however this is considered unlikely to materialise given the diverse and widespread locations of the identified waste sources and destinations of waste outputs in the application documents. The other co-location benefit identified, which was accepting Tarmac's weight in periods of poor weather and operational stress, is considered to be a negligible benefit and vastly outweighed by the need to transport waste considerable distances by road to and from this site, which is not sustainably located.
149. In terms of the proposed hours of operation, they would exceed those allowed on the adjacent landfill site. The introduction of HGVs and staff vehicles to Gibbet Lane during the proposed extended hours, particularly in the weekday evenings and Saturday afternoons, would likely give rise to some additional impacts in terms of noise and the use and enjoyment of footpaths X24 and X26 which are accessed via Gibbet Lane, but this is not considered significant. It is also noted that permitted HGV movements would be spread over a longer period, potentially reducing their intensity.
150. Significant concern has been raised from local residents around odour and pests because the facility has historically been the source of nuisance through fugitive malodorous emissions and fly infestations. However, it is considered that the proposed MRF is far less likely to produce odour and pests than the permitted MBT use due to the removal of the mechanical biological treatment (composting) element. Therefore, it is not considered that the change of use would simply re-introduce those same adverse effects, even with the proposed increase in throughput, by virtue of the nature of the proposed process, and that the proposal does not conflict with policy DM2.
151. The proposal would offer benefits in terms of the overarching diversion of waste from landfill and the commensurate reduction in greenhouse gas emissions helping move towards a low carbon future. There is a small economic benefit from the construction phase of the development and the employment generated at the site. This would accord with the NPPF to help achieve economic growth and provide employment benefits. The proposal also offers a small benefit in that some 3,000tpa (2%) would go into the adjacent landfill without entering the highway network. These benefits weigh in

favour of the proposal. However, in the planning balance these benefits are not sufficient to overcome the conflict with the locational policies of the MWLP and the proposal should be refused.

152. No demonstrable overriding need for this facility in a rural countryside location has been provided. The proposed increase in throughput to the facility is not acceptable in policy terms, and it is considered that the facility at Cotesbach is in an unacceptable location for the proposed development

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 and noise.

REFUSE, for the following reasons:

1. The proposed development would result in a strategic facility on a greenfield site in a remote rural location, contrary to policy W3 of the Leicestershire Minerals and Waste Local Plan. The site is poorly located in respect to waste arisings and to sustainable transport choices. The proposal lacks any demonstrable co-location benefits and involves the exportation of the vast majority of waste outputs by HGV to distant and dispersed locations. Furthermore, it has not been demonstrated as to why the facility could not be located in the urban areas. Therefore, the application, if approved would be contrary to policy W3.