



DEVELOPMENT CONTROL AND REGULATORY BOARD

10th FEBRUARY 2022

REPORT OF THE CHIEF EXECUTIVE

COUNTY MATTER

PART A – SUMMARY REPORT

- APP.NO. & DATE:** 2021/0895/03 (2021/VOCM/0062/LCC)
- PROPOSAL:** The variation of conditions of planning permission reference 2017/1380/03 (2017/CM/0237/LCC) to allow the Tile Works to continue the manufacture of roof tiles (and associated operations, activities and uses) and import sand via the highway, for a period of up two years (but not beyond 31 December 2030), following cessation of operations at the processing plant of the adjacent Cotesbach-Shawell Quarry processing plant.
- LOCATION:** Shawell Tile Works, Gibbet Lane, Shawell, LE17 6AB.
- APPLICANT:** BMI Group
- MAIN ISSUES:** The acceptability of the continuation of this use in this location, for a temporary period, without the link to the adjacent quarry. The delay to restoration. Impacts upon highway networks as a result of increased HGV movements and importation of sand.
- RECOMMENDATION:** Refuse

Circulation Under Local Issues Alert Procedure

Mr. B. L. Pain, CC.

Officer to Contact

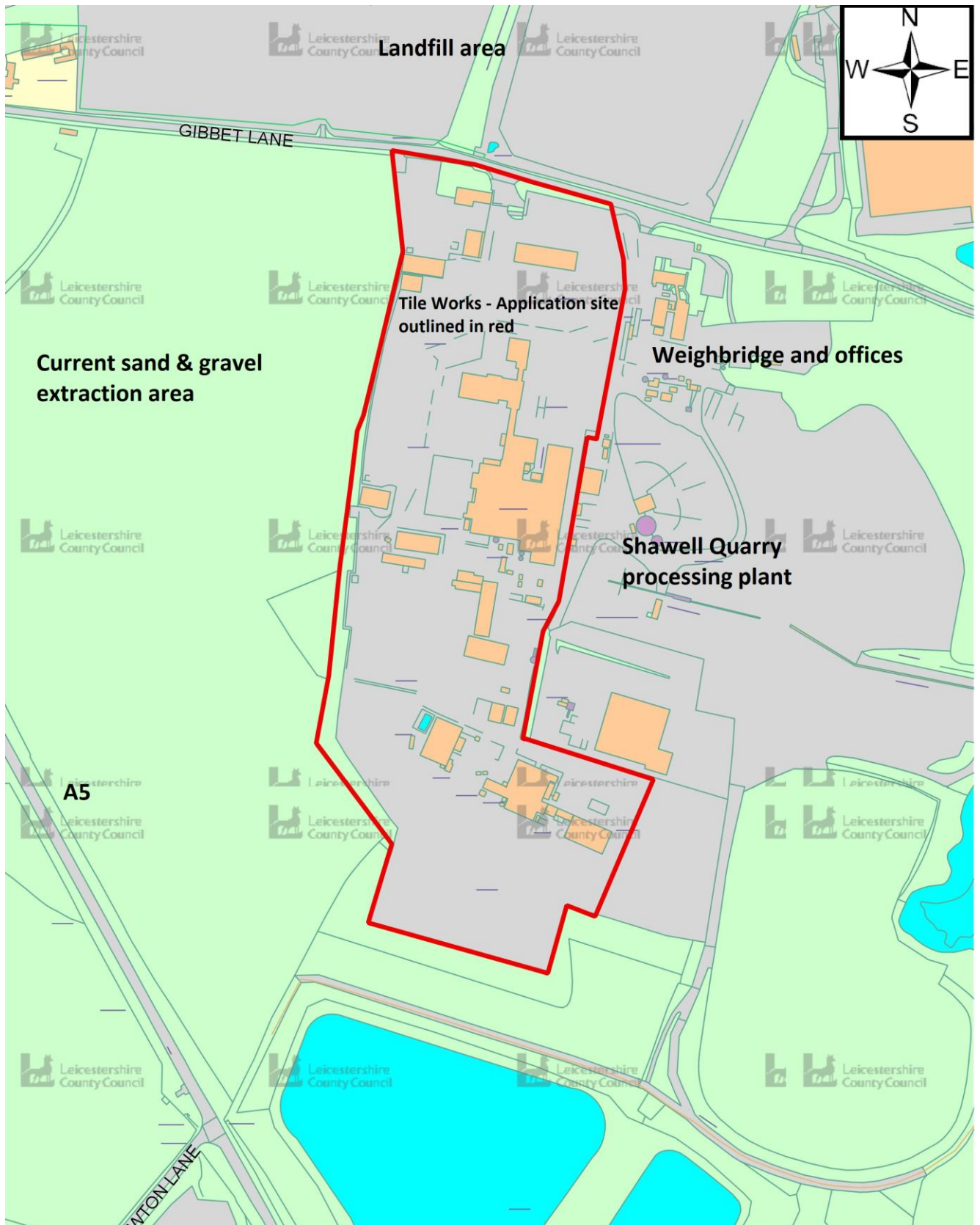
Brian O' Donovan (Tel. 0116 305 1085).
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PART B – MAIN REPORT

The Site and Surroundings

1. The application site is located on Gibbet Lane, Shawell, within the wider active Shawell/Cotesbach quarry and landfill site, which is separately owned and operated by Tarmac Trading Limited. The site extends to approximately 9.4 hectares and is approximately 750m west of Shawell and 1.3km south of Cotesbach, near Lutterworth. Gibbet Lane links Shawell with the A5/A426 roundabout junction to the west.
2. The site is on the south side of Gibbet Lane, and it is surrounded on all sides by active mineral and waste operations. To the north, on the other side of Gibbet Lane, is the landfill area which is permitted to operate until 2044. Immediately east is the main operational area of Shawell quarry comprising the weighbridge, staff offices, processing plant, stockpile and storage areas, and a disused concrete block works. To the south are silt settlement lagoons relating to the mineral extraction operations and, immediately west, mineral extraction is currently taking place under planning permission 2018/1457/03. Operations in this area commenced in July 2020 and are expected to continue until January 2023 before moving on to the next extension area located approximately 500m north-west of the tileworks (Ref: 2019/1891/03).
3. The nearest residential properties to the site are Greenacres and Gibbet House on Gibbet Lane, between approximately 350 and 500 metres west of the site, near the A5/A426 roundabout. Properties known as Holme Close Farm and Littledene are located approximately 700 and 725 metres east, also on Gibbet Lane.
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 500m south-east of the site, albeit beyond former extraction areas and the former Great Central railway line.
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 500m south-west of the site, albeit beyond the A5 trunk road, and the Motte castle and associated earthwork SSW of All Saints Church in Shawell (1017549) which is located approximately 750m south-east. Shawell Conservation Area is approximately 700m east of the site boundary, and the nearest Listed Buildings are at least 750m distant, within Shawell Village.
7. There are no Public Rights of Way (PRoW) within the application site. The closest PRoW is Bridleway X27, which runs along Gibbet Lane immediately north of the site. The second closest PRoW is Footpath X23, which runs alongside the silt settlement lagoons to the south, approximately 50m from the site boundary.

8. By virtue of its location within a wider 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. The applicant owns and operates a roof tile production facility ('Tile Works') on the site. The Tile Works has been present in this location, in one form or another, since the 1960s having benefitted from a series of temporary planning permissions justified by the link between the Tile Works and the adjacent sand and gravel quarry (Shawell Quarry). The facility is located here to make use of the sand extracted from Shawell Quarry, having originally been owned and operated by the same company. The Tile Works was sold off to a third-party company in 2007.
10. The principal planning permission for the operation of the site is Ref. 2017/1380/03, which was granted in October 2019. The extant planning permission allows the retention of the tile works until 31st December 2030 or on the date one year after the permanent cessation of sand and gravel production at the adjacent Cotesbach-Shawell Quarry processing plant or the cessation of tile manufacturing, whichever is the earlier. The approval of this application was specific in its reasons for the acceptability of the tile works in this location:

"The site is in a rural area where planning permission would not normally be granted for the erection of industrial or associated buildings. This permission is granted for a temporary period only and for a specific use having regard to the special circumstances relating to the close proximity to the source of aggregate raw material required in the manufacturing process. The Mineral Planning Authority is of the opinion that when that raw material is exhausted this and no other manufacturing process or storage use should be permitted on this site and the site should be restored in a timely manner to agricultural land or such other form as may be appropriate to the rural character of the locality."

11. An application was submitted on the 15th October 2020 for the variation of conditions 1, 2, 4, 5, 6, and 8 of planning permission 2017/1380/03 (2017/CM/0237/LCC) to allow an extension of time to the operations at Shawell Tile Works until 31st December 2030 and the importation of sand via the highway in the event that sand and gravel production at the adjacent Cotesbach-Shawell Quarry processing plant permanently ceases before 31st December 2030. This application was subsequently withdrawn on 02nd March 2021.

Description of Proposal

Overview

12. This planning application seeks to vary six conditions of the extant temporary Tile Works planning permission Ref. 2017/1380/03.
13. The proposal includes the variation of Condition 1 to extend the temporary nature of the areas used by the Tile Works until 31st December 2030 (as per extant permission) or two years after the permanent cessation of sand and gravel production at the adjacent Cotesbach-Shawell Quarry processing plant or the cessation of tile manufacturing, whichever is the earlier.
14. Currently, the Tile Works' temporary use is permitted until 31st December 2030 or on the date one year after the permanent cessation of sand and gravel production at the adjacent Cotesbach-Shawell Quarry processing plant or the

cessation of tile manufacturing, whichever is the earlier. The variations of the other conditions, out with those relating to HGV movements, are ancillary to this issue and are outlined in full in the proceeding report.

15. The buildings, structures, and manufacturing processes within the site itself would remain unchanged by the proposals, however an increase in permitted HGV movements is sought by varying Condition 4. There are two separate triggers for the increase in HGV movements on the highway. The first is an immediate change to numbers from 240 per week to 480 (240 HGVs entering the site and 240 HGVs exiting the site). The applicant has outlined that this is to rectify an issue to reflect the actual number of HGV movements which are already on the highway.
16. Following the permanent cessation of sand and gravel production at the adjacent Cotesbach-Shawell Quarry processing plant, it is proposed that the number of heavy goods vehicle movements on the highway generated by the development shall not exceed 600 in any week. This would be to facilitate the proposed variation of Condition 5 to allow the importation of sand following the cessation of sand and gravel production at the adjacent Cotesbach-Shawell Quarry processing plant.
17. The justification provided for the additional one year wind down period is that without approval, the applicant has great uncertainty as to when the adjacent Shawell-Cotesbach quarry processing plant (which is in third party ownership and outside of its control) will permanently cease production. It is explained that closure of this processing plant would effectively shut the Tile Works almost immediately, resulting in a sudden loss of employment and a significant negative impact on the UK's house building and construction industry.
18. The application is supported by a Planning Statement, Cover Letter, Economic Report, Closure Programme Plan and Transport Appraisal. Additional information, pertaining mainly to Highways matters, have been provided by the applicant following the consultation period for the application.
19. The proposed variation of conditions are outlined in full below. To clarify, any wording in bold is that proposed by the applicant to be added, and wording with a line through is that proposed by the applicant to be removed:

Condition 1

20. It is proposed that Condition 1 be varied as follows:

“This operation of the roof tile works is limited to the period expiring on 31st December 2030 or on the date ~~one~~ **two** years after the permanent cessation of sand and gravel production at the adjacent Cotesbach-Shawell Quarry processing plant or the cessation of tile manufacturing, whichever is the earlier. Within one year of the expiry of that period, all buildings, structures and hardstandings on the site shown edged red on plan ‘Title Number LT461832’ received 1st August 2019 or **that have been erected on the site under any other planning permission shall be demolished and removed**, and the whole of the site shall be restored in accordance with the scheme as approved by condition 8 (eight) of this planning permission.”

Condition 2

21. It is proposed that Condition 2 be varied as follows:

“This permission shall relate to the temporary retention of all buildings and structures located on the site shown edged red on plan ‘Title Number LT461832’ received 1st August 2019 at the date of this permission, **or that have been erected on the site under any other planning permission.**”

Condition 4

22. It is proposed that Condition 4 be varied as follows:

“**Before the permanent cessation of sand and gravel production at the adjacent Cotesbach-Shawell Quarry processing plant**, the number of heavy goods vehicle movements on the Highway generated by the development hereby permitted shall not exceed ~~240~~ **480** in any week (i.e. ~~120~~ **240** HGVs entering the site and ~~120~~ **240** HGVs exiting the site). **After the permanent cessation of sand and gravel production at the adjacent Cotesbach-Shawell Quarry processing plant, the number of heavy goods vehicle movements on the Highway generated by the development hereby permitted shall not exceed 600 in any week (i.e. 300 HGVs entering the site and 300 HGVs exiting the site).** The operator shall keep a record of all heavy goods vehicles accessing and leaving the site. Back records shall be kept for a minimum of 12 months and access to these records shall be afforded to the Mineral Planning Authority on request.”

Condition 5

23. It is proposed that Condition 5 be varied as follows:

“**Until the permanent cessation of sand and gravel production at the adjacent Cotesbach-Shawell Quarry processing plant**, notwithstanding condition 4 (four) above no heavy goods vehicles shall use the Highway to import sand (with the exception of silica sand) in to the site as shown edged red on plan ‘Title Number LT461832’ received 1st August 2019.”

Condition 6

24. It is proposed that Condition 6 be varied as follows:

“All heavy good vehicles leaving the site shall turn ~~right~~ **left** onto Gibbet Lane unless for the purposes of local tile delivery.”

Condition 8

25. It is proposed that Condition 8 be varied as follows:

“No later than 31st December 2030 or within **18** ~~six~~ months after the permanent cessation of sand and gravel production at the adjacent Cotesbach-Shawell Quarry processing plant or six months after the cessation of tile manufacturing, whichever is the earlier a scheme of site clearance and reclamation of the site as

shown edged red on plan 'Title Number LT461832' received 1st August 2019 shall be submitted for the approval of the Minerals Planning Authority. Such a scheme shall include details of the demolition and removal of the buildings, structures and hardstanding, provisions for the replacement and/or restoration of soils, the retention and protection of the existing trees and hedgerow on the western boundary, the planting of appropriate vegetation to enable the site to be brought back into a beneficial afteruse (amenity, biodiversity, woodland, agriculture) and for a five year aftercare period, and the timescales for achieving all the details in the scheme. Works shall then be carried out in accordance with the approved scheme."

Planning Policy

The Development Plan

Leicestershire Minerals and Waste Local Plan (LMWLP) (adopted September 2019)

26. The relevant policies of the LMWLP are set out below:

- Policy M12: Safeguarding of Existing Mineral Site and Associated Minerals Infrastructure
- Policy M13: Associated Industrial Development;
- Policy DM1: Sustainable Development;
- Policy DM2: Local Environment and Community Protection;
- Policy DM5: Landscape Impact;
- 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;
- Policy DM12: Restoration, Aftercare and After-use.

Harborough Local Plan 2011-2031 (adopted April 2019)

27. The relevant policies of the Harborough Local Plan are set out below:

- Policy GD1: Achieving Sustainable Development;
- Policy GD3: Development in the Countryside;
- Policy GD5: Landscape character;
- Policy BE1: Provision of new business development;
- Policy BE3: Existing employment areas;
- Policy IN1: Infrastructure provision;
- Policy IN2: Sustainable transport.

National Policy

National Planning Policy Framework (NPPF)

28. The National Planning Policy Framework 2021 (NPPF) sets out the Government's planning policies for England and is a material consideration in planning decisions.

29. Paragraph 8 of the NPPF identifies the three overarching objectives to achieve sustainable development – economic, social and environmental. These objectives are interdependent and need to be pursued in mutually supportive way so that opportunities can be taken to secure net gains across each of the different objectives.
30. The NPPF advocates a presumption in favour of sustainable development at paragraph 11, and for decision-taking this means:
- c. approving development proposals that accord with an up-to-date development plan without delay; or,
 - d. where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against NPPF policies.
31. Paragraph 81 of the NPPF outlines that Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development
32. Paragraph 111 of the NPPF 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.
33. Section 15 of the NPPF covers conserving and enhancing the natural environment. Paragraph 174 advises that planning decisions should: contribute to and enhance the natural and local environment by: recognising the intrinsic character and beauty of the countryside, and the benefits of the best and most versatile agricultural land, trees and woodland; minimising impacts on and providing net gains for biodiversity by establishing coherent ecological networks; and preventing unacceptable levels of pollution.
34. Paragraph 211 advises that, when determining planning applications, Mineral Planning Authorities (MPAs) should ensure that: there are no unacceptable adverse impacts on the natural and historic environment, human health or aviation safety, and take into account any cumulative effects; any unavoidable noise, dust and particle emissions are controlled, mitigated or removed at source, and appropriate noise limits for extraction in proximity to noise sensitive properties are established; and restoration and aftercare are achieved at the earliest opportunity to high environmental standards.

Planning Practice Guidance (PPG)

35. Planning Practice Guidance (PPG) provides additional guidance to ensure the effective implementation of the national policy set out in the NPPF in relation to

mineral extraction. It identifies the principal issues to be addressed including the following relevant matters: noise, dust, air quality, lighting, landscape and visual impact, heritage features, flood risk, ecology, restoration and aftercare. The PPG seeks to implement the NPPF requirements to provide for the restoration and aftercare of mineral sites at the earliest opportunity, carried out to high environmental standards. It advises on the use of a landscape strategy, reclamation conditions and aftercare schemes to achieve the desired after-use of the site following working.

Consultations

36. Harborough District Council (Planning) – Comments:

37. Harborough District Council (HDC) Development Management Officers have outlined that they are mindful of both the business needs of the tile company as well as the issues associated with the business continuing in this location once the quarry ceases to be in operation, notably in terms of sustainability. However, HDC Officers have stated that “as the County Council is best placed to understand the longevity of the quarry and whether or not any further extension to its operational life is likely, and will also have appropriate policies for assessing such proposals, the District Council defers to your judgement in respect of the principle of the development.”

38. HDC have noted local concerns about traffic issues and highway safety as outlined in the Parish Meeting’s response to the above application. They have requested that these matters be fully assessed in the determination of the application as the residents have clearly experienced detrimental effects from both the quarry, the tiles work and other activities on Gibbet Lane.

39. HDC Development Management Officers have noted that comments have been received from HDC Economy and Business Services in respect of the economic benefits of the proposal but it is requested that these will be considered separately to the comments received in respect of planning matters. It is noted that planning decisions must balance competing interests and concerns and they trust that all material planning considerations will be considered in determining the application. It should be noted that comments from HDC Economy and Business Services have been provided direct to the applicant and are contained within their submission rather than directly to the MPA.

40. Harborough District Council (Environmental Health Officer) – No comments

41. Shawell Parish Council – Objection:

42. A detailed representation has been submitted and covers a number of grounds for objection, summarised as follows:

- Non-compliance with planning policy, in particular M13, DM1, DM2, DM9, DM11, and DM12 of the adopted LMWLP (2019); GD3, GD5, BE1, BE3, BE5, GI2, CC1 and IN2 of the adopted Harborough Local Plan (2019) and paragraphs 143 and 144 of the NPPF (2019);
- There is no justification for 30,000 HGV movements – there is no suggestion in the proposed application of the operation “winding down”

given the increase of HGV movements and for two years after the quarry ceases.

- The two-and-a-half-fold increase in HGV movements at Gibbett Roundabout would contribute to severe traffic/highways issues on the local community – creating highway and pedestrian safety issues. This has not been considered within the Transport Statement and it has not adequately considered the impacts upon the local road network.
- References to Highways England plans to improve Gibbett Roundabout are not relevant to the current application as there are no current plans for these so by the time they may be implemented would not assist with the current and proposed situation.
- The applicants have wilfully contravened the HGV movements conditions on the extant planning permission and the suggestions that the current HGV movements were a mistake by LCC Officers does not stand up to scrutiny. It is requested that the Planning Authority considers how these excessive HGV movements occurred and it is noted in the Parish Council's view that the operator has outgrown the permitted capacity at the site.
- The proposal would undermine the restoration work of other companies and the reduction in HGV movements on this rural lane.
- The proposal would undermine LCC's Environment Strategy as the Parish Council contend that the applicants make a veiled admission that the proposal is an unsustainable development by offering Carbon offsetting in lieu of excessive transport by HGVs. It's not considered that this is an appropriate strategy where emissions can be avoided, and reference is made to UN Framework Convention on Climate Change and LCC Environment Strategy.
- On all previous planning applications at the site there is an absolute link to mineral extraction and decisions have emphasised the fundamental importance of co-location with the quarry.
- Other planning application which have been granted on Gibbet Lane have also emphasised the importance of co-location with minerals and waste operations. It is noted that operations that are unconnected with mineral extraction have been refused, with the planning authorities having been consistent throughout the life of the application site and those surrounding, that they are temporary and only permitted due to their links with adjacent quarry.
- The rationale for the need for the development outlined in the Planning Statement is not logical as it should be done in the shortest time possible and extending the timeframe does the opposite.
- All planning permissions associated with this facility are of a temporary nature and there are no planning permissions for permanent buildings on this site.

- The applicants are willing to accept a planning condition that would enforce them to address illumination nuisance which has been ongoing for a number of years since the installation of floodlighting. There is already a condition requiring this and if the applicant had complied with this an additional condition would not be necessary.
- There is no justification for the delay in approving a restoration plan as per condition 8 of the extant planning permission.
- There is no justification in the delay in approving a Restoration Plan as required by Condition 8 given the applicant's failure to plan appropriately for the closure of the quarry.
- The applicant contend that they are at the mercy of another organisation as to when the quarry ceases resulting in a "sudden shock" to their operations that would cease "immediately" – the Parish Council state it is the applicant have created the situation by developing a strategic facility on a site with a finite time-scale and having not adequately prepared for this. It is also not explained as to why they would have to stop "immediately". The economic arguments put forward would be immaterial if the applicant took action to relocate the operation in more appropriate, compliant timescales.

43. Following the withdrawal of National Highways objection, a further comment was received from Shawell Parish Council on 22nd November 2021. They have raised the following concerns:

Concerns relating to National Highways Response

- HE guidelines require an assessment of the impact of proposals on the strategic road network AND the local road network. The latter has not been done - no assessment has been made of the impact on our village roads and their use as a relief road for Gibbet Roundabout.
- The applicant's Transport Assessment already acknowledges that Gibbet Roundabout is "nearing" capacity - even as our village is taking too much of the load already. Gibbet Roundabout will always be "nearing" capacity if our village is available as a relief road for excess traffic. Adding more traffic just transfers the load directly to the village lanes. Hiding HE's excess Strategic Road Network traffic in rural Leicestershire lanes and villages is not a sustainable or acceptable solution.
- The 2019 baseline that is used to justify the additional HGV movements similarly did not take into account Strategic Network Traffic overflowing through our village. We have been highlighting this issue since our 2017 report ("Reclaiming The Village"). It was evidently not acceptable in 2019, and HE have this evidence.
- The Transport Assessment previously relied on improvements to Gibbet Roundabout resulting from Magna Park (and other) development obligations. HE pointed out that these were not viable, but the applicant has declined to address this problem, with the apparent agreement of HE.

Concerns about SRN traffic through the village, and HGV congestion at the roundabout and Gibbet Lane, in addition to the other concerns submitted previously:

- The further tile factory extension contravenes NPPF, LCC and HDC planning policies.
- It prolongs and exacerbates the impacts on the local community and the environment.
- The need for an extended "wind-down" period beyond the existing generous provisions is not evident.
- Wilful breaches of existing planning conditions, to the clear detriment to the community and the environment, should not be rewarded.

44. **Cotesbach Parish Council** – No comments received.

45. **Newton and Biggin Parish Council** - Objection.

46. Newton and Biggin Parish Council have stated that their response from the previously withdrawn application Ref. 2020/VOCM/0166/LCC stands for this application.

47. Thus, Newton and Biggin Parish Council object on the basis that the co-location of the quarry and Tile works constitutes what is considered to be a sustainable relationship, and that the proposed development will break that link given they it is their understanding that the quarry will be closing in the relatively near future whereas the proposed development seeks to prolong the life of the tile works.

48. The Parish Council are concerned that given the bulk of raw materials are currently sourced from the adjacent quarry, the importation of these from elsewhere will substantially increase HGV movements on the surrounding road networks. It is also highlighted that the County Council will be aware that it has recently refused a planning application for a recycling facility in Shawell, which in part was due to the unsuitability of the road network. Particular attention should be drawn to the reference of Gibbet Lane in that decision, with the current application site also located on Gibbet Lane.

49. The Parish Council believe that given the proposal to break the link between raw material and production, the current application should be looked upon as if it were a proposal to establish a new manufacturing facility on the site. In their view such an application would likely be refused for reasons relating to National and Local Policy as well as due to the unsuitability of the road networks. It is then stated that refusal would allow restoration of the overall site to proceed.

50. The Parish Council have suggested the following three conditions in the event that the County Council were minded to grant permission:

1. A clear undertaking from the applicant, preferably in a legally enforceable format, that no further approvals seeking to extend the life of the tile works will be sought;

2. A traffic management plan that restricts all vehicle movements to and from the site to Gibbet Lane only;
 3. An agreement under S106 to secure, at the applicant's expense, the improvements to Gibbet Lane and its junction with the A5 necessary to accommodate the increase in HGV vehicle movements.
51. **Member of Parliament for South Leicestershire Mr Alberto Costa MP** – It has been outlined that the Chairman of Shawell Parish Council, has contacted Mr Costa's local office to explain the nature of the submission of the application and the background including the previous withdrawn scheme and refusal of a separate application nearby.
52. Issues relating to the continual breaching of approved HGV movements to the site and the insufficient nature of BMI Redland's engagement with the local community have been raised with Mr Costa. As has, the view that the approval of the application would be contrary to the County Mineral and Waste Plan, with regard to both environmental and resource matters. It has also been mentioned to Mr Costa that the applicant has had several extensions granted and can continue to operate for an additional three years, which should be sufficient to enable a move to a more viable site in the long term.
53. Mr Costa MP has noted that whilst this is a sensitive application, he would be grateful if Planning Officers are advised of the concerns raised and take these into account in line with LCC Planning Policies and the NPPF.
54. **Mr Blake Pain CC (Bruntingthorpe ED)**– No comments received.
55. **Highways Authority** – The initial comments from the Local Highway Authority (LHA) on the 2nd June 2021 requested additional information due to the absence of junction modelling files for the Gibbett Hill roundabout. The LHA outlined that to be satisfied that the impacts upon the road network would not be severe, they would require the applicant to submit the relevant ARCADY modelling files for review. They would also require the submission of traffic flow diagrams for each of the assessed scenarios.
56. Following the submission of additional information by the applicant, including ARCADY modelling files and traffic flow diagrams, the LHA requested further additional information on 19th July 2021. This information relates to trip generation methodology, junction assessment and potential breach of Condition 4 of the extant planning permission.
57. Further information was submitted to address this in the form of a Technical Note, including trip generation data, details of staffing and operations in relation to HGV movements and updated junction modelling. The LHA provided updated comments on 05th November 2021 requesting further information to demonstrate that the base scenario traffic is evenly distributed over the AM and PM peak hours and that the use of FLAT profile is justified for the future scenario.
58. The applicant provided additional information, clarifying that DIRECT input had been used rather than FLAT profile with regard to the modelling. They have also clarified the time periods which were used within the junction modelling. This information was reviewed by the LHA and updated comments were received on 14th January 2022. The LHA have concluded that they are satisfied with the

applicant's approach to assess trips during the highway network peak hours. They are also satisfied that the proposed development does not result in any concerns on its local highway network, specifically Gibbet Lane and A426 Rugby Road, which continues to operate within capacity. Even taking into account some significantly committed developments in the area, the associated increase in traffic due to the proposal, the LHA considered it would not be significant upon the local highway network and no further modelling assessments is required. The LHA also has no objection to the amended wording to condition 6. Thus, the LHA have no objection to the proposed variation of conditions.

59. **National Highways** – Initial comments from National Highways on 2nd June 2021 requested that planning permission not be granted for a period of three months to enable the applicant and the LPA to provide additional supporting information. The additional information requested relates to clarification of HGV movement figures relating to Condition 4 in the Planning Statement, whilst it is also noted that National Highways independent check on TEMPRO growth factors resulted in higher figures than those included in the Transport Statement. It appears that only small developments were included in the modelling assessment, whilst larger developments were not included. They have also expressed concern in relation to the use of ARCADY as an appropriate modelling tool and the details included within this modelling in any event. Thus, Conditions 4 and 5 were recommended not to be varied at this time.
60. National Highways have noted that they were not consulted on the extant planning permission Ref. 2017/1380/03, therefore the rationale for Condition 6 is unclear to them. They request that this condition is not varied until they receive clarification regarding this condition. They have also stated that they have no comments to make in relation to Conditions 1, 2 and 8.
61. National Highways have reviewed the submission of additional information from the applicant in relation to HGV numbers, forecasts, volumes, management plans and hourly comparisons, details in relation to the quarry, employment and activities on site and confirmation of the wording of Condition 6. Following their review they provided comments on 26th July 2021 and 02nd September 2021 seeking additional clarification with regard to HGV movement increases between 2018 and 2019, details in relation to sand exportation thresholds, HGV routes and mechanisms to ensure there are no further breaches, staff traffic details and further clarification with regard to the error in the wording of Condition 6. It was also outlined that ARCADY modelling does not reflect the real traffic condition at the location and there was no consideration of other committed developments apart from those listed in Table 4.
62. The applicant provided a response to National Highways, seeking to clarify the points raised as per the above. National Highways have reviewed this and provided updated comments on 10th September 2021. They have outlined that notwithstanding the previously identified modelling issued, based on the updated information provided, they do not consider the traffic impact on the SRN from the proposed amendments to be significant and therefore no further modelling is required. National Highways have also stated that they have no further comments or objections to make with regard to the variation of Condition 6, as it appears to rectify an error with the original condition. Thus, National Highways have no objection to the proposed variation of conditions.

Publicity and Representations

63. The application has been publicised by means of site notices, press notice and neighbour notification letters sent to the nearest occupiers in accordance with the County Council's adopted Statement of Community Involvement.
64. A total of 54 representations, identified as objecting to the proposal have been received. Reasons for objection include, in summary:

Principle of Development

- This site is a temporary facility approved due to the adjacent quarry workings and the end of the quarry has been known for years so there has been sufficient time to plan for re-location of personnel and operations.
- The site has been granted numerous extensions due to the continued viability of the quarry, the latter which is now at the end of its viable working life.
- Previous planning decisions for this and other Gibbet Lane operations emphasise that the main reason for their approval is the co-location benefits associated with the link to the quarry. Previous extensions have been granted only because the life of the quarry was extended; a permanent operation at the application site was refused in 1987. When the quarry ceases, there is no reason for the associated businesses to remain at this rural site.
- The application site should be restored to a greenfield site at the earliest opportunity after the permission expires.
- The applicant has not produced any credible material reasons to over-ride planning policies. All the benefits claimed by the applicant can instead be realised by starting the "wind-down" process earlier rather than later - consistent with policy and existing permissions. No alternative plans have been published to show that this has been considered robustly.

Planning Policy

- The proposal contravenes Policy DM12 of the LCC MWLP requiring the earliest restoration of the site to a greenfield location, consistent with its rural, agricultural character.
- Policy M13 of the MWLP requires that any businesses associated with the quarry (e.g. tile factory) are removed when sand extraction ceases. The applicant has known about this condition for decades and the timescales for closure for several years. Extending the permission beyond the life of the quarry would contravene Policy M13.
- The LMWLP contains a Shawell site specific planning requirement to include measures for transporting mineral to the processing plant without using the public highway.

Traffic / Highways

- Concerns in relation to the increased volume of traffic regarding highway/pedestrian/cyclist safety
- It compounds the adverse impact of HGVs and other traffic at the congested Gibbet Roundabout, which has caused severe safety issues in Shawell village.
- Gibbet lane and A5 roundabout is already an accident waiting to happen and locals are forced to avoid this now.

- They are currently in breach of the HGV movements which are permitted under the extant planning permission.
- Increasing issues at Gibbet Lane roundabout causing vehicles to divert through the village (being used as a relief road) which will only be further compounded by the proposed increase in HGV movements.
- Concerns of HGVs blocking the road and long queues of HGVs which would render it unpassable or unsafe for all other road users causing a highway safety issue.
- HGVs pull out of the site without any concern for the local community and other road users.
- Increased HGV movements along Gibbet Lane will force roads users onto less appropriate roads through Shawell – increasing danger to pedestrian cyclists as well as increasing pollution and noise.
- The application site is located within an area with poor local transport options.
- The applicant's transport assessment has not considered that the village lanes are being used as relief roads for Gibbet Roundabout and the impacts of the increased HGV movements would have within that context.
- HGVs are causing major damage to the road network, infrastructure and environment.
- Gibbet Lane has become a no-go zone for cyclists, horse riders and pedestrians due to the HGV movements along the Lane.
- A two-and-a-half-fold increase in HGV movements would make a bad and dangerous situation worse.
- Gibbet lane always has a film of dirt from lorries exiting the quarry and the landfill site without being washed and it is not uncommon to find bricks and hardcore on the highway – this is exacerbated when it is wet as it becomes extremely muddy and slippery as it is not cleaned and storm drains become blocked.
- The country lane is vitally important to the local community as there are limited amenities in the village and it is no longer serviced by a bus route – this means the use of private cars and the lane are very important.
- HGVs are now attempting to go through the village to avoid the Gibbet Lane roundabout which will severely impact upon the bridge and is dangerous for pedestrians.
- The proposal would include more operational movements at the weekend.
- Concerns that the Transport Appraisal does not take into account the current traffic volume as it quotes older surveys which is not representative of the significant increase in volumes recently due to the redevelopment of the M6 Junction 19.
- The Transport Statement indicates that trips to and from the plant would increase however the additional trips would be approx. 40% above the 2019 levels.
- Data in relation to road accidents at the roundabout is 3 years old and the pandemic should be considered an 18-month break in the data. Also, this does not take into account the proposed increase in HGV movements – increased pressure on roundabout and reduced space between vehicles.
- Statement and model in relation to highways safety at the roundabout is also taken from 2018 levels – it does not take into account associated blockages of HGVs turning into Gibbett Lane compounded by poor visibility, a busy garage on the corner and wagons parked on the shoulder of the road.
- It is outlined in the Transport Statement that the DoT Circular 02/2013 suggests that they can be allowed within the capacity of a section of strategic

road network and development should only be prevented where the cumulative impacts of the development are severe – objectors view is that they are severe.

- Highways England have acknowledged that Gibbet Lane is already congested, whilst they also have no viable plans to make improvements.
- With the expansion of Magna Park there has been a significant increase in HGVs using the Gibbet roundabout. This junction is a primary route for HGV traffic going to and from: Magna Park and the M1 (south) Jct 18 via A5, Magna Park to M6 Jct 1 via A426, Magna Park to M1 (north) Jct20 via A426 and M6 Jct 1 to M1 (north) Jct 20 via A426.
- There is a planning permission pending at Magna Park for a new HGV facility which includes parking for 378 lorries and a refuelling station which should be taken into consideration.

Sustainability

- The application site is an unsustainable location for developing a strategic facility - rural, Greenfield site with poor local transport options, in an area that is not designated for increasing employment opportunities.
- Unnecessary HGV journeys increase Leicestershire's carbon footprint, contrary to LCC's strategic objectives. Carbon offsetting is not a good solution where carbon emissions can be avoided.
- It would be better to relocate the tile factory to the new source of the sand rather than transporting the sand to this obsolete quarry site – importation of sand causing significant congestion on the UK road network.
- Once the quarry closes, the alternative site for importation of sand will be that which is cheapest, not closest - add unnecessary and environmentally detrimental transport activity to the entire supply chain.
- Extending the operation of the Tile Works would delay the reduction in atmospheric carbon associated with planting woodland to restore the site – any carbon offsetting should include carbon and direct emissions, and carbon that would have been removed from the air if the site had been restored as planned but remains in the atmosphere.

Economic

- The site currently employs 41 persons living in Lutterworth and Market Harborough, with the Lutterworth area employing over 40,000 people, which represents 0.1025% (other objector outlines 0.09%) of locally available jobs, which means that site is not a significant local employer.
- The application site is not designated for increasing employment opportunities.
- The employment and other benefits claimed in the application could be achieved by a timely investment in a more appropriate location, consistent with planning policies and this proposal merely delays the winding down process that could have started already.
- Shawell Tile Works have mentioned they are an essential business due to employing over 100 workers when in reality they employ just over 40 people.
- HDC's Economic Strategy is looking for new permanent employment sites and supporting expansion of existing businesses - what's their plan for Gibbet Lane?
- The number of indirect jobs and the local multipliers are asserted without any explanation or validation of how these numbers have been calculated –

concerns over the accuracy of the figures in the Economic Report in relation to payroll and expenditure of employees.

- The projected returns on investments made in 2017 can only have been evaluated on the extant permissions and deemed profitable within the time parameters of those – should not be included as a factor in the current planning application.
- As the closure was known of well in advance, the transition for the Tile Works should be managed closely with the quarry rather than through extensions and variations.
- Transport Statement claims there will be no change in numbers of employees on site – this doesn't support the argument of the plant being a major hub of local industry. The Transport Statement also estimates based on Rugby's growth without evidence for this being comparable.
- Lack of planning by the applicant is not a reason to grant another extension to operations – there have been ample opportunities for the applicant to pursue alternative sites.
- Claim of "significant investment" in 2017 – this was a commercial decision that would have been made on 5-year window given the permission in place. Thus, investment has either paid for itself and reaped profits (no bearing on economic decision to keep plant open) and they are seeking to delay wind down process (breaking agreed planning agreements – permanency turned down in 1987), or it has not been profitable (the village is being asked to support the impact of miscalculated or unwise investment and this is not a rationale for supporting the plant on economic grounds).

Amenity

- Entrance to bridle way X27 is immediately opposite the entrance to the site and is already inaccessible during operating hours due to current HGV movements, whilst other footpaths and bridle ways in the area have already been compromised due to cumulative developments.
- The proposal would increase the ongoing issues of noise, air and light pollution as well as dirty roads and hedgerows from rubbish, dangerous traffic, and pollution that already blight the village.
- The number of HGVs using Gibbet Lane prevents residents accessing local green spaces, whilst the rerouted footpaths after the quarries closure would not be accessible due to the potential ongoing HGV movements on the Lane.
- Noise impacts from reversing vehicle beepers and industrial fans and light pollution from tower lighting on the application site which is highly visible from neighbouring properties and the village itself.

Other

- The area around the quarry is becoming a wildlife haven and this needs to be promoted by LCC as a success story of regeneration and return to its rightful rural setting rather than going against policies to extend the life of this inappropriately positioned industrial facility.
- Excellent restoration work has been carried out by other operators at this site, consistent with policy DM12's requirement to do so progressively and at the earliest opportunity. This proposal would compromise the excellent restoration work done by others.

- Concern that if this application is allowed this may enable further extensions in future – attempt to make the site permanent and could also have implications for making the recycling plan permanent.
- The application is attempting to break the conditions of the original application, go against the outcome of several previous applications and seeking to break the bond with the council, with the various policies, and with village and surrounding communities.
- The land adjacent to the A426/Cotesbach Village was permitted additionally, despite a legal agreement with local communities not to exploit that land.
- The site has already received many extensions, including a two-year extension since the announcement of the quarry closure.
- There are many brownfield sites available which should be re-developed prior to greenfield sites being extended.
- All the counties little hamlets and villages will be eaten up and nothing of the history and heritage will be left – importance of keeping our cultural identity alive.
- Redland hint at another nearby source of sand that has 20 years of reserves - will they really close or ask to continue to import sand by HGV permanently.
- External costs will be borne by the village's environment and safety and the Council through financial costs in terms of repair/maintenance and monitoring.
- The operator has a poor track record of complying with planning conditions and there is no reason to think they would during any further extended operation.

65. The issues raised are considered in the Assessment of Proposal section of this report.

Assessment of Proposal

66. 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 principle of development (in particular, the proposed 'de-coupling' of the tileworks from Shawell quarry and the extended "wind-down" period), the need for the facility in this location without the link to the quarry, highways, sustainability, and restoration of the site.

Principal of Development

67. The Tile Works is a form of ancillary industrial development located within the wider Shawell Quarry and Landfill site, therefore policy M13: Associated Industrial Development is the appropriate starting point for assessing this application.

68. Policy M13 states that planning permission for ancillary industrial development within or in close proximity to mineral sites will be granted provided that it is demonstrated that there is a close association with the mineral site and there are environmental benefits in providing a close link with the extraction site. Where permission is granted, the operation and retention of the development will be limited to the life of the permitted reserves.

69. There is a clear and demonstrated close association between the Tile Works and Shawell Quarry in that a substantial part of the raw materials for the production of tiles are sourced directly from quarry and transported via an internal gateway

between the two sites. This arrangement has clear environmental benefits, specifically the avoidance of a significant number of HGVs moving on the highway. Furthermore, the permitted operation and retention of the tile works is limited to the life of the permitted reserves. Therefore, provided the permitted operation continues its close association with the quarry, the use is in accordance with the requirements of policy M13.

70. The current planning application proposes a variation of Condition 1 to extend the temporary nature of the areas used by the Tile Works until 31st December 2030 (as per extant permission) or for two years following cessation of sand and gravel production, including the importation of sand and gravel via the highway following the cessation of quarrying activities. Currently, the Tile Works' temporary use is permitted until 31st December 2030 or on the date one year after the permanent cessation of sand and gravel production at the adjacent Cotesbach-Shawell Quarry processing plant or the cessation of tile manufacturing, whichever is the earlier. It does not allow for the importation of materials to the application site. As a result, this application proposes a scenario whereby the Tile Works would effectively 'de-couple' from the quarry and be able to import raw material from elsewhere. This would directly contravene the 'association' component of Policy M13.
71. Policy GD3 of the Harborough Local Plan supports mineral and waste development and therefore associated/ancillary industrial development outside of existing settlement areas. Policy GD3 outlines where development would be considered acceptable in the countryside, and this includes where it is required for minerals and waste development (criterion 'c'). The Tile Works within Shawell Quarry is not required for the quarry; the quarry is required for it, thus there is no support offered by GD3(c). Nonetheless, criterion 'e' of GD3 is considered relevant as this relates to where it is necessary for the continuation of an existing enterprise, facility or operation, which is a key supporting argument for the application. However, the stipulation here is that it must be compatible with its setting in the countryside. It is considered that, without the policy support of M13, the tile works would represent a standalone industrial facility that is not compatible with its setting in the countryside. Thus, the application does not accord with this key local policy either. Whilst it is noted that the application does not adhere to the relevant policies in this instance, the MPA do acknowledge that the proposal is not for a new permanent development. It is for a temporary time extension to an established business which does reduce some of the impacts with regard to the policy conflicts rather than a proposal for a standalone permanent industrial development in the countryside.
72. In addition, the Harborough Local Plan does not recognise the Tile Works as an existing employment area (Policy BE3) or as an area for future employment development (Policy BE1). Despite the site not being identified as an acceptable location for employment, the countryside can be an acceptable location for this form of minerals related development, i.e. an ancillary operation to mineral extraction that is making use of the mineral extracted in the immediate vicinity of the works. However, the proposed 'de-coupling' of the two sites would mean that the tile works is neither ancillary nor making use of the mineral extracted in the immediate vicinity of the works. The proposal would not strictly be in adherence to this policy either, however as noted above the MPA do recognise that the extent of the conflict is not the same as if they were proposing a new stand-alone facility with no quarry association.

73. The applicant states that:

“if the processing plant at the Quarry continued until or beyond 2030, the Site would operate unaltered under the Permission. But in the event that the Quarry processing plant closes before 2030, the Applicant would be faced with a sudden shock – that the Tile Works would have to close almost immediately, as Condition 5 of the Permission prevents import of sand other than from the Quarry and there is no space on the Site to stockpile more than a very limited supply of sand ahead of the Quarry processing plant closing. Their position is that the intention of the Permission at Condition 1 is to allow the Tile Works a ‘wind down’ period of one year following the closure of the Quarry processing plant, but this intention is negated by Condition 5. The Permission is therefore conflicted and inconsistent with itself.”

74. The applicants’ position is that:

“a wind down period of one year must be considered consistent with the MWLP, including Policy M13, as that is what the County Council granted with the Permission. The proposed development now differs from the extant permission in that a longer ‘wind down’ period is sought – two years rather than one and this would also include the importation from elsewhere with associated increased HGV movements should the quarry cease prior to 31st December 2031. They consider that in the context that the Tile Works has been running since the 1960s and the Quarry since the late 1950s, to allow an additional one year ‘wind down’ period for the Tile Works is considered to remain consistent with MWLP Policy M13 in that the operation of the ‘associated industrial development’ will not extend significantly beyond the Quarry processing plant when viewed across a 60 year period. Provisions of the Permission for the restoration of the Site would remain unaltered, save for taking account of the additional one year ‘wind down’ period sought. On this basis, the principle of the Proposed Development should be accepted.”

75. However, the applicant has also stated that if the Mineral Planning Authority were of the view that the two year wind down period would have some conflict with MWLP Policy M13, the MPA must also give full consideration as to the applicants justification (mainly economic reasons) for the extended wind down period and importation of materials via the highway. These matters shall be reviewed and considered below.

76. In relation to the points outlined above with regard to the proposed development adhering to Policy M13 given the longevity of the Tile Works at the application site, it is noted that there is no trigger in this Policy for extended periods for ancillary development or de-coupling from the mineral site on the basis of the length of time that the associated development has been in situ. The extant permission, which enabled a one year “wind down” period did not enable a de-coupling from the adjacent mineral’s operation. It was clear in the DCRB report for the extant permission Ref. 2017/1380/03 that the co-location benefits were still intrinsic in the continued use of the Tile Works:

“The site is in a rural area where planning permission would not normally be granted for the erection of industrial or associated buildings. This permission is granted for a temporary period only and for a specific use having regard to the

special circumstances relating to the close proximity to the source of aggregate raw material required in the manufacturing process. The Mineral Planning Authority is of the opinion that when that raw material is exhausted this and no other manufacturing process or storage use should be permitted on this site and the site should be restored in a timely manner to agricultural land or such other form as may be appropriate to the rural character of the locality.”

77. There is therefore a clear policy conflict resulting from the proposed variation to the extant permission with regard to Policy M13 and GD13, albeit a reduced level of harm due to the temporary nature.
78. Consideration has been given to the points made by the applicant in relation to the “sudden shock” that would result in the event of the quarry processing plant closing before 2030, whilst also not having sufficient space for stockpiling for the extant 1 year wind down period. This “wind down” period was applied for by the then applicant in 2017 as per the extant planning permission Ref. 2017/1380/03 (2017/CM/0237/LCC) in the event that the quarry ceased activities prior to 2030. It has been public information that it is likely to cease before 2030 and all recent applications for the Tile Works continuation at the application site has highlighted this is due to the existence of the quarry and the relevant policy support that accompanies this.

Restoration

79. Policy DM12 sets out restoration, aftercare and after-use guidance for temporary minerals and waste development. The subtext to this policy states that it is particularly important that temporary development sites such as quarries are properly restored and, to facilitate the earliest possible restoration and limit operational impacts, temporary workings should be subject to progressive restoration (para 5.81). In addition, Paragraph 211(e) of the NPPF states that mineral planning authorities should provide for restoration and aftercare at the earliest opportunity.
80. A key concern raised during the consultation period by members of the public and local parish councils was that the proposal contravenes local and national policies by preventing the earliest, progressive restoration of the wider Shawell Quarry site back to countryside.
81. Although the Tile Works itself is a temporary ancillary industrial development rather than a minerals and waste development, the application site also falls within a wider minerals planning permission (2004/1605/03) meaning the land below has permission for mineral extraction and could be worked as an extension to Shawell Quarry. Therefore, Policy DM12 is relevant.
82. It is recognised that the mineral permission on the site predates the change in ownership of the tileworks to a separate company from that which extracts the mineral, which occurred in 2007. Nonetheless, in planning terms, 2004/1605/03 is considered to be the principal permission on the application site and any temporary permission granted on the surface since the mineral’s permission is considered subservient.
83. The Mineral Planning Authority has been clear on previous decisions (including the extant permission, 2017/1380/03) that when the raw material is exhausted,

this and no other manufacturing process or storage use should be permitted on the site and the site should be restored in a timely manner to agricultural land or such other form as may be appropriate to the rural character of the locality.

84. Any extension of time for the Tile Works granted beyond the life of the permitted reserves at Shawell Quarry (which at the time of writing is currently expected mid-2023 at its very earliest) represents a delay to restoration of the wider site and, on that basis, the proposal conflicts with DM12 and Paragraph 211 (e) of the NPPF. As has been outlined above in the report, the policy conflict is reduced to an extent due to the fact the proposal is for a temporary time extension to an established business.

Economic Considerations

85. Notwithstanding the above policy matters, it is recognised that the development plan should be considered as a whole, and limited specific policy conflict, particularly where this is not significant, does not necessarily render it contrary to the development plan as a whole or mean that planning permission should be refused when considered against all other material planning considerations. The application is supported by an Economic Impact Report, with the main purpose of the proposed development being the applicant seeking to minimise / mitigate the economic impact of the Tile Works having to close on the site. The Economic Impact Report highlights the following economic benefits from the Tileworks:

- Is a source of significant direct (104 jobs) and indirect (171 jobs) local employment;
- provides for £2.8m annual employee household spending in local / regional shops and services;
- has a £12.1m annual turnover, which would contribute £47.4m GVA to the economy over the next 10 years;
- makes a meaningful tax contribution with £2.4m VAT and £137,000 business rates paid in 2019; and
- In terms of the production output of the site, in providing 8% of the annual supply of UK roofing tiles, it is a critical part of the Government's commitment to achieving the delivery of at least 300,000 homes per annum by the mid-2020s. Indeed, the site is the only location where specific profiles of the Redland 49 roof tile is made, as well as now the more innovative DuoPlain tile.

86. The applicant has included comments from the Economy & Business Service Manager at Harborough District Council within Appendix A of the Economic Impact Report. These include the following comments:

“For BMI Group to suddenly have to cease production at the Tile Works would be catastrophic to its employees and the local economy that they support. We would therefore be keen to work with the Minerals and Waste Planning Team to seek to agree a longer and more orderly wind-down period of the Tile Works, once the quarry processing plan shuts”; and

We recognise the economic benefits of the approach that BMI Group is seeking, to secure a two-year wind-down period for its operations, so that when the Tile Works has to shut, this is done in a manner that reduces sudden unemployment and redundancy and help to lessen the economic and social shock this brings.”

87. The applicant has also provided a letter from the Chair of the Leicester and Leicestershire Enterprise Partnership. This includes the following comments:

“It is understood that current planning restrictions associated with the Tile Works requires the production at the site to suddenly halt as soon as the adjacent quarry processing plant, which is separately controlled by CRH Tarmac, cease. The Tile Works and its employees are consequently subject to circumstance outside of its control.

...Securing a two-year closure period will ensure that the process is conducted in a manner that lessens sudden unemployment for workers thereby reducing the economic and social shock this will undoubtedly bring.

The importance of managing any loss of employment, particularly with the severe economic impacts of the Covid-19 pandemic is a priority for the LLEP and is very much in line with the LLEP Covid 19 Economic Recovery Action Plan, which gives particular focus on employment and jobs. The LLEP is in full support of the application being made on behalf of BMI Group.”

88. The applicant provided further details on 25 January 2022 in the form of a Proposed Shawell Closure Programme Macro Level Project Plan (dated 20th April 2021). This Closure Plan outlines the four aspects of the production operations currently undertaken at the Tile Works and that it is not possible to simply increase current production output elsewhere to compensate for its closure. It is stated that a complex programme of financial investment, engineering works and human resource management is needed to be carried out. The purpose of this project plan is establishing the quickest decommissioning process to close the Tile Works, whilst balancing issues such as redundancies, business continuity and supply chain management.
89. It further states that the utilisation of existing BMI Group sites is seen to be more effective and efficient than seeking a new alternative site. A new site, out with the control of BMI would create further unknowns and programme risks. The applicant’s view is that the modifying existing production lines at other sites and relocating one of the Shawell production lines to an existing UK site is the quickest solution with a manageable level of risk. The Closure Plan provides a high-level breakdown as to how the current operation would be wound down and relocated and accommodated elsewhere. It outlines the impacts upon the various production lines, details of decommissioning and relocation, works required to be carried out at other sites to accommodate any staffing and corporate responsibilities. The Project Plan concludes that it would take 26 months from a decision to close the Shawell operations to having those operations relocated and up and running in the new locations.
90. The MPA note that economic considerations are to be afforded weight as part of the planning balance considerations. These material considerations are included as part of the wider planning balance in the conclusion section of this report.

Social and Economic Considerations

91. In relation to the other sustainable development objectives outlined in Paragraph 8 of the NPPF, the applicant has outlined that the social benefits of the proposed development would be the provision of a sufficient period to better address the social implications of the closure of the Tile Works.
92. The environmental benefits would include assessing the existing external lighting across the site to minimise its impacts upon local residents, regularizing the routing of HGVs away from Shawell village and ensuring the provision to demolish all existing buildings on the site once restoration is required.

Highways

93. Highways considerations relate to the variation of conditions 4, 5 and 6 of the extant planning permission Ref. 2017/1380/03 (2017/CM/0237/LCC).
94. In relation to increased HGV trips and the impact upon the surrounding highway network, the applicant has outlined that the proposed development seeks to rectify an issue where Condition 4 of the extant permission does not provide for sufficient existing trips associated with the Tile Works (the applicant states that the limit of 240 HGV total movements referenced by the extant Permission should have been 240 movements entering the Site and 240 movements leaving the Site – i.e. 480 total movements). The proposed development is also to allow HGV trips on the highway network for the import of sand, for a period of two years after the Quarry processing plant ceases production, including an additional 120 HGV movements in any week (total HGV movements of 600 following cessation of quarrying activities). It should be noted that the MPA, National Highways and LCC Highways consider that the HGV movements as per the extant permission were considered correctly as per the submitted documentation at that time. Regardless of this position, the existing and proposed enhanced impacts upon the highways network have been considered.
95. A Transport Statement (TS) has been submitted to accompany the planning application, which identifies the existing level of HGV trips for the Site in 2019 (as per table 1 below):

Type	Max Weekly	Average Weekly
Customer Deliveries & Collections	127	89
Raw Materials (excluding sand)	79	79
Total HGV	206	168
Total HGV in & out	412	336

Table 1 – Total HGV movements in 2019 (weekly)

96. The TS also outlines that the volume of sand imported from the adjacent quarry was equivalent to 1,898 HGV movements (3,796 two-way) during 2019. Once the Quarry ceases production and sand is imported from elsewhere via the highway, forecasts show an equivalent HGV demand of up to 2,914 movements (5,828 two-way). It is outlined that for the purposes of the submitted TS the

number of yearly HGV movements associated with the importation of sand has been rounded up to 6,000 two-way movements. Given the operations on site and HGV movements required, the TS concludes that in the event that the adjacent quarry ceases operations, the importation of sand would result in an increase of up to 11 HGVs per day during the week (22 two-way movements).

97. With regard to the forecasted traffic growth and the impacts upon the Gibbett Hill/A5 roundabout junction, the TS shows that the forecast traffic growth between 2018 and 2021 was 3% in both the AM and PM peak hours (local TEMPRO growth factors were used to calculate this). The TS has outlined that the applicant is aware of committed developments and potential future capacity constraints at the roundabout. However, in this context the TS outlines that the proposal includes a maximum potential increase of c16 HGV movements per day through the Gibbet Hill/ A5 roundabout junction. In the 2018 AM peak (07.15-08.15) the junction catered for 5,980 vehicle movements including 1,034 HGVs) in that period.
98. In relation to the Junction Assessment within the TS it is outlined that the roundabout has been modelled using ARCADY modelling files. The ARCADY assessment presents the 07:15-08:15 and the 17:00-18:00 as the AM and PM peak periods. The highest hourly assumptions for the site traffic have been tested in those peaks. The TS states that the modelling identifies that whilst the junction is nearing capacity it continues to operate within its theoretical capacity during the AM and PM peak with a potential increase in queuing on the Gibbet Lane approach of 1 passenger car unit(1 car or 0.5 HGV). It concludes that the proposed increase in the permitted number of weekly HGVs and allowing import of sand from the public highway would not result in a material impact on the local or wider highway network. Therefore, combined with the good safety record of Gibbet Lane and its junction with the A5, the proposals would not result in a severe impact on highway safety or capacity.
99. National Highways and the Local Highway Authority (LHA) have reviewed the proposed development and the submitted accompanying documents, mainly regarding the variation of conditions 4, 5 and 6. Both National Highways and the LHA requested additional information in relation to technical matters over the course of the application including traffic modelling and methodology and an understanding of operations, staffing, HGV timings.
100. The applicant provided additional information to the LHA in the form of ARCADY modelling files and traffic flow diagrams. They have also provided further details in the form of a Technical Note clarifying the robustness of the trip generation calculations, outlining the staffing levels and shift patterns and that given the scale of the proposed development modelling the impacts of the larger developments in the area would not be appropriate, given that they are intended to be mitigated by a National Highways scheme (funded by those developments). Further information was also submitted in relation to justifying the fact the modelling was based on the DIRECT input rather the FLAT approach.
101. Having reviewed all of the submitted information the LHA have concluded that they are satisfied with the applicant's approach to assess trips during the highway network peak hours. They are also satisfied that the proposed development does not result in any concerns on its local highway network,

specifically Gibbet Lane and A426 Rugby Road, which continues to operate within capacity. Even taking into account some significantly committed developments in the area, the associated increase in traffic due to the proposal, the LHA considered the impacts would not be significant upon the local highway network and no further modelling assessments is required. The LHA also has no objection to the amended wording to condition 6. Thus, the LHA have no objection to the proposed variation of conditions and are satisfied that the proposal would not have an unacceptable impact upon the highways network.

102. The applicant has also provided additional information to National Highways. This mainly pertained to clarifying points within the TS and the background/detail of the application site and its operations, including operation levels, HGV movements and times, staffing levels and booking-in systems for deliveries and collections. Further information was also provided by the applicant in relation to Tile Works production levels and outlining the HGV traffic to the application site is spread throughout the day.
103. National Highways provided their final comments on the application in September 2021 concluding that based on the updated information provided, they do not consider the traffic impact on the strategic road network from the proposed amended conditions to be significant and therefore no further modelling is required. Thus, National Highways have no objection to the proposed variation of conditions 4, 5 and 6.
104. Following the withdrawal of the objection from National Highways further comments were received from Shawell Parish Council expressing their concern at this development. Officers have also noted that the vast majority of neighbour objections highlighted concerns in relation to highways impacts. Officers sought to clarify these points raised with National Highways and it was outlined by National Highways that many of the issues raised were regarding the overflow of traffic on to the Local Road Network. However, they highlighted that it is not within their remit to undertake assessment on the LRN which falls outside their ability to manage and control and they had no additional formal comments to add following their comments from September 2021 (no objection subject to conditions).

Condition 6

105. It is proposed that Condition 6 be varied as follows: “All heavy good vehicles leaving the site shall turn ~~right~~ **left** onto Gibbet Lane unless for the purposes of local tile delivery.”
106. In relation to the above condition, both National Highways and the LHA sought clarification in relation to condition as neither of these bodies had requested the imposition of this condition on the extant permission Ref.2017/1380/03. Officers have reviewed this, and it is evident that the inclusion of “shall turn right” rather than “shall turn left” was included in error on the previous decision notice. Whilst the LHA did not previously request this condition, the report for application Ref. 2017/1380/03 brought before Development Control and Regulatory Board 10th October 2019 included the following:

“The Highway Authority points out action has been taken to try and deter HGVs from using Shawell village but it is considered that a condition on any planning

permission to control turns out of the site would assist in reducing any issues and protecting the amenity of Shawell village”

107. The variation of this condition would rectify this drafting error. National Highways and the LHA have reviewed this explanation and are satisfied this element would not have an unacceptable impact with regard to highways considerations.

Landscape and Visual Impact

108. The site is on the south side of Gibbet Lane, and it is currently surrounded on all sides by active mineral and waste operations. The Tile Works is located within the defined countryside as per Policy GD3 of the Harborough Local Plan. The application site consists of a very significant amount of built form and hard standing within the countryside. This includes numerous structures, buildings and hardstanding of varying scales, size and design. The application site is industrial in its appearance and use and this is only allowed for in this location due to the adjacent mineral operations as per Policies M13 and GD3. The existing development and associated buildings have been considered acceptable as a temporary use due to its co-location benefits with the adjacent use. However, in this case, the use is supposed to cease at the point of the cessation of quarrying activities (notwithstanding the extant 1 year “wind down” period without importation of sand from elsewhere). This application seeks to create a longer “wind down” period and de-couple the use from the adjacent quarry.
109. Without the policy support for ancillary industrial development to minerals operations, the proposed retention of these structures for a longer period will have a degree of harmful impact upon the visual amenity of the area, landscape and countryside. The extended use therefore does not comply with policy DM5, DM12 and M13 of the Leicestershire Minerals and Waste Local Plan and policy GD3 of the Harborough Local Plan.

Noise/Air Quality/Dust/Odour

110. No concerns have been raised by the Environmental Health Officer at Harborough District Council with regard to noise, air quality, dust or odour as a result of the proposed variation of conditions. There are therefore no concerns in this regard.

Conclusion

111. The applicant contends that there is no identified conflict from the proposed development with the Development Plan as a result of the proposed variation of conditions. The application seeks a two year “wind down” period if the quarry operations ceased prior to December 31st 2030, whilst the importation of sand from sources other than the adjacent quarry would be required with increased HGV movements compared to current situation. This would constitute a de-coupling of the Tile Works from the minerals site, albeit for a temporary period, and would also result in the delay to the restoration of the site. Therefore, the proposed variation of conditions 1, 5 and 8 would contravene policies M13 and DM12 of the LMWLP and policy GD3 of the Harborough Local Plan.

112. The economic benefits of the proposal, as outlined by the applicant, have been summarised in this report. Whilst it is understood that the applicant is seeking to operate their business in the most efficient and cost-effective manner, the application site has always had a finite lifespan for the use of the Tile Works and repeated decisions and planning decisions have clearly set out that its continuation is intrinsically linked to the lifespan of the adjacent quarry. The only justification for this use in planning policy terms in this location is the ongoing quarrying activities. The potential impending cessation of these activities and the remaining life of the quarry areas currently being worked (MPA are currently aware of intention to cease no earlier than mid 2023) are in the public domain. It is evident that the previous application was submitted to take account of this and given that the additional 1 year “wind down” did not lead to a de-coupling of the site, it was considered to be acceptable.
113. Whilst it is understood that the applicant is at the behest of a third party in terms of the mineral cessation, this is an established situation and is not an unforeseen issue. The support letters from HDC Economic and Business Service Manager and Leicester and Leicester and Leicestershire Enterprise Partnership which were included in the application submission are noted. However, it is unclear as to what their knowledge and understanding of the planning background to this is and naturally, their views are through the prism of economics and business. This has been further highlighted by HDC Planning Team, who outline that officers will need to consider all planning merits and policy. The Closure Programme Plan takes into account and outlines the most effective and efficient way for the site to be de-commissioned and re-located elsewhere. None of the submitted information identifies any forward planning or considerations based on the current planning permission, nor does it give any significant detail as to why it could not be located a different site (other than it is not the preferred or effective choice). It is therefore not considered that the proposed economic benefits would outweigh the harm identified with regard to policies M13, GD3 and DM12.
114. The social and environmental benefits outlined (including seeking to rectify lighting issues, ensuring restoration is carried out including demolishing all buildings, address social implications of closure and regularise condition 6) would have limited to negligible weight in the decision making process as much of this is either covered by condition, is rectifying an existing conditional issue or of low weight in general consideration.
115. The proposal would see the de-coupling of the Tileworks from the adjacent mineral operations, albeit for a time-limited period, and would represent a standalone industrial facility in an area defined as countryside as per the Harborough Local Plan. The proposal would also result in a delay to the restoration of the application site (albeit not by a significant amount of time) as per the extant permission and include additional HGV movements following the cessation of quarrying activities. Therefore, the proposal would have an unacceptable impact upon the countryside and landscape. While the proposed benefits are important considerations, they are not sufficient to outweigh the harm identified. The proposed variation of conditions 1, 5 and 8 would contravene policies M13 and DM12 of Leicestershire Minerals and Waste Local

Plan (adopted September 2019), Policy GD3 of Harborough Local Plan 2011-2031 (adopted April 2019) and the NPPF.

Statement of Positive and Proactive Engagement

116. In determining this application the Minerals Planning Authority has worked positively and proactively with the applicant by assessing the proposals against relevant Development Plan policies, all material considerations, consultation responses and all valid representations that have been received. The MPA has enabled outstanding highways matters to be resolved through the provision of additional information to statutory consultees and provided opportunity for the applicant to make their case on policy related issues. This approach has been in accordance with the requirement set out in the National Planning Policy Framework. In this instance, however, it has not been possible to resolve the issues of concern so as to overcome the harm as identified in the reasons for refusal.

Recommendation

A. REFUSE subject to the reasons set out in Appendix A.

Officer to Contact

Brian O' Donovan (0116 305 1085)
E-Mail planningcontrol@leics.gov.uk

Reasons for Refusal

1. The proposed continued use of the application site as a Tileworks on a temporary basis, without the co-location benefits of the adjacent Shawell-Cotesbach Quarry, would result in an unacceptable form of industrial development in a countryside location. The additional two years of operations, in the event that the quarry ceased prior to 2030, would result in the importation of materials not linked to the quarry and unsustainable HGV movements. This would result in an unsustainable form of development in a rural location. As such, the proposed variation of conditions 1 and 5 would be contrary to policies DM1 and M13 of Leicestershire Minerals and Waste Local Plan (2019) and Policy GD3 of Harborough Local Plan 2011-2031.
2. The proposed continued use of the application site as a Tileworks, if operations at the adjacent Shawell-Cotesbach Quarry ceased development prior to 31 December 2030, would result in restoration not taking place at the earliest opportunity. This would result in a discordant and industrial addition to the landscape and is detrimental to the character and appearance of the countryside. As such, the proposed development would be contrary to policies DM5 of Leicestershire Minerals and Waste Local Plan (2019), Policy GD3 of Harborough Local Plan 2011-2031 and paragraph 211 e) of the NPPF

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.