

**DEVELOPMENT CONTROL AND REGULATORY BOARD****12 JUNE 2025****REPORT OF THE CHIEF EXECUTIVE****COUNTY MATTER****PART A – SUMMARY REPORT**

APP.NO. & DATE:	2025/VOCM/0028/LCC (2025/00337/03)
PROPOSAL:	PROPOSED VARIATION OF CONDITIONS 1, 18, 26, 29 OF PLANNING PERMISSION 2013/1538/03 (2013/VOCM/0295/LCC) FOR THE VARIATION OF CONDITION NOS. 1 AND 13 OF PERMISSION REF. 2009/1488/03 TO DEFER THE REQUIREMENT FOR A BRIDGE SURVEY, BRIDGE WORKS AND A TRAFFIC REGULATION ORDER AND APPROVAL OF SCHEMES SUBMITTED UNDER CONDITIONS 7, 12, 28, 36 AND 38 OF PLANNING PERMISSION 2009/1488/03 FOR THE ERECTION OF AN ANAEROBIC DIGESTION FACILITY WITH ASSOCIATED INFRASTRUCTURE AND LANDSCAPING
LOCATION:	SUTTON LODGE FARM, FROLESWORTH ROAD, BROUGHTON ASTLEY
APPLICANT:	Sutton Lodge Biogas Limited
MAIN ISSUES:	highway safety, impacts to local amenity resulting from increased noise, landscape and visual impacts
RECOMMENDATION:	Approval subject to conditions

Circulation Under Local Issues Alert Procedure

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PART B – MAIN REPORT

The Site and Surroundings

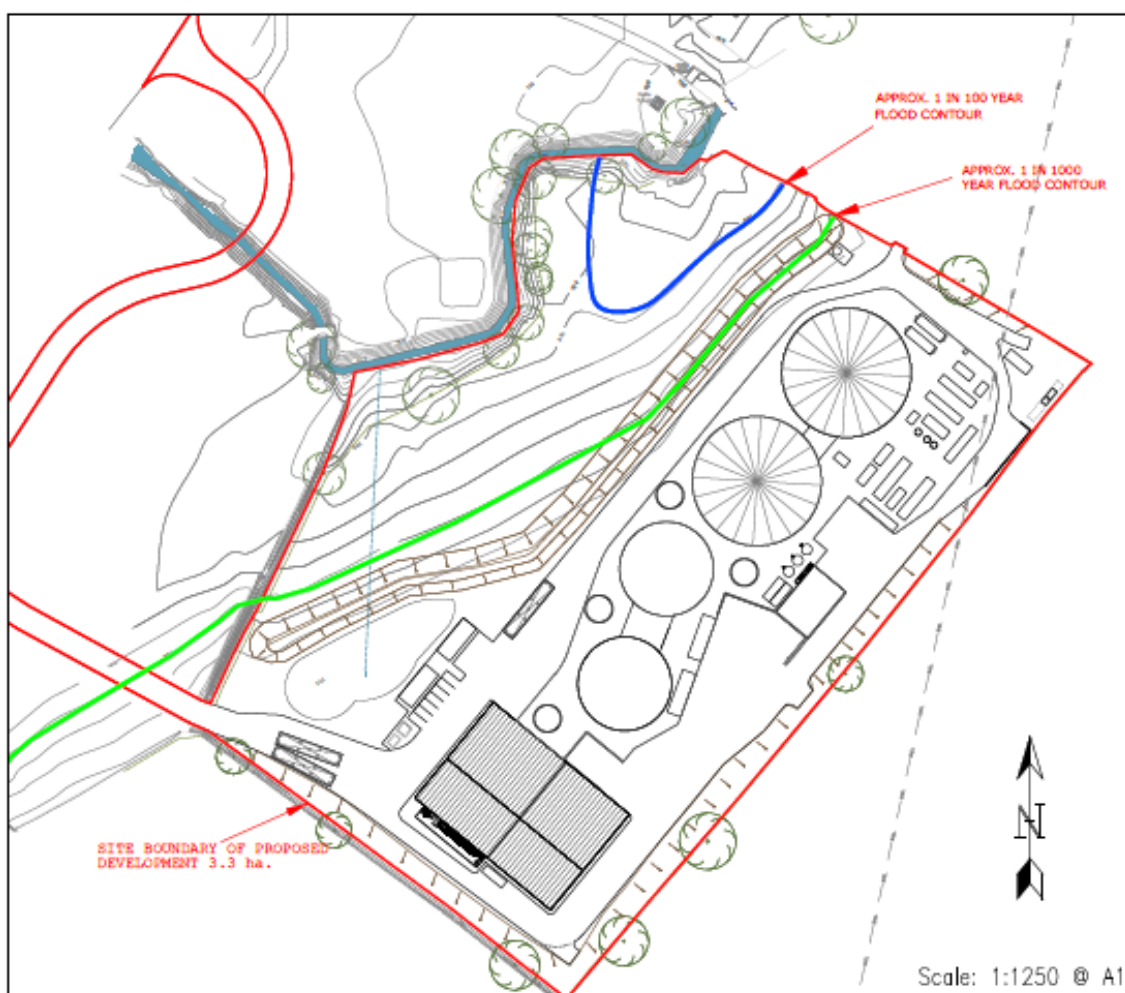
1. The application site is an agricultural field to the east of the Fosse Way. It lies approximately 1.3 kilometres (km) east of Sapcote and 1.3km west of Broughton Astley within the parish of Broughton Astley. The field is roughly rectangular in shape and is some 2.3 hectares (ha) in size. It is classed as Grade 3 agricultural land and is currently under pasture. The field falls gently from east to west and is bounded on its north-western boundary with mature trees and hedges, whereas the other boundaries consist predominantly of lower lying hedges interspersed with mature trees. A watercourse, which is an unnamed tributary of the River Soar, also forms the north-west boundary of the site. The River Soar itself is approximately 90 metres (m) to the north and west of the site and the site access road, and a small section of the site in its northern tip, fall within Flood Zone 2. The site is located within a Nitrate Vulnerable Zone.
2. The application site sits in a predominantly rural landscape with agricultural land adjoining the site in all directions. It is accessed via a dedicated road directly off Roman Road/the Fosse Way, which is an unclassified road connecting to the B4114 (Coventry Road).
3. The site is in a sparsely populated area, which is characterised by dispersed farmsteads. The nearest residential property is Fosse Farm, which is 300 metres to the south. Beyond this, residential properties at Sutton Lodge Farm are approximately 695m to the south-east, whilst the Barnhouse is 685m to the north-east.
4. There are no historic environment designations within the site. One non-statutory nature conservation designation, the River Soar, Stoney Bridge, Stoney Stanton Local Wildlife Site (LWS) is immediately adjacent to the north-west site boundary. One public bridleway (W59) runs to the north of the site and is also accessed off the Fosse Way. After a distance of around 11m from its access from the Fosse Way this bridleway joins the access track to Sutton Lodge, (i.e. the track is the bridleway).

Planning History

5. Planning permission (Ref: 2009/1488/03) was granted in November 2010 for the erection of an anaerobic digestion facility with associated infrastructure and landscaping. Permission was granted subject to 38 conditions, including a number of pre-commencement conditions, and a legal agreement. The legal agreement covers matters relating to off-site highway improvement works, archaeological survey work and flood risk emergency evacuation measures. With the exception of conditions 11 and 13 (which were the subject of planning application 2013/1538/03), all pre-commencement conditions were submitted and the development implemented (via the creation of the site access), prior to the expiry of the planning permission. Whilst no further development has taken place since the creation of the site access, the planning permission is considered to have been lawfully implemented and remains extant.
6. In August 2014, planning permission (Ref: 2013/1538/03) was granted for the variation of conditions 11 and 13 of planning permission 2009/1488/03 in order

to defer the requirement for a bridge survey, bridge works and the implementation of a traffic regulation order. This permission did not seek to change any aspect of the original scheme.

7. Further amendments to the scheme were approved in October 2022 under a non-material amendment¹ (Ref: 2022/NMA/0128/LCC). The changes related to the replacement of a combined heat and power (CHP) unit with a gas upgrading unit and grid entry unit.
8. An application for a non-material amendment (Ref: 2024/NMA/0119/LCC) for the variation of Condition 18 to allow for the year-round export of digestate from the facility was refused by Leicestershire County Council (made under officer delegated powers) in November 2024 because the proposed amendment was considered to be 'material'.
9. The site is identified as a safeguarded waste site in the Leicestershire Minerals and Waste Local Plan 2019-2031.



¹ A non-material amendment is a form of application that can be made under Section 96a of the Town and Country Planning Act 1990. It is a way of amending an existing planning permission where the amendment is very minor and is not a material change to the development as approved.

Background/Description of Consented Development

10. The consented anaerobic digestion (AD) facility is designed to process up to 55,000 tonnes per annum (tpa) of a mix of agricultural manures, residues from the food processing industry and, potentially, municipal waste from within Leicestershire, subject to appropriate contracts being secured. It will also generate around 47,000 tpa of liquid digestate which would be used as an alternative to artificial fertilizer on farms. Digestate is permitted to be exported from site by both road and pipeline, although precise details of the latter have never been confirmed. Approximately 1,000 tonnes (t) of wrapping/packaging waste, associated with the residues from the food processing industry, was also originally envisaged to be generated which was to be redistributed to recycling and/or landfill facilities.
11. The original application provided broad indicative details of the quantities/mix of waste feedstocks that would be required to operate the plant (10,000 tpa of cattle/poultry slurries, 10,000 tpa of silage and 35,000 tpa of food processing wastes) making it clear that these quantities were estimates which may be subject to change, depending on the quantities of available food wastes and slurries at any time. The applicant has stated that, in the intervening period since the initial grant of planning permission, waste management approaches have also moved on. A consequence of this is that food waste will no longer form as significant a feedstock for the project as originally proposed. Whilst the facility will continue to incorporate some non-agricultural waste, this is likely to be process liquids rather than large volumes of food waste with associated packaging as originally envisaged. A significant proportion of the feedstock will now be formed of rotational energy crops and agricultural waste to generate renewable biomethane gas.
12. The AD plant was originally intended to generate 1.5 megawatts (MW) of electricity continuously via a combined heat and power (CHP) plant. Upgrades in technology and changes to UK Government energy policy in the intervening period since the original grant of permission has seen the introduction/adoption of 'gas to grid' biomethane injection for AD plants. Following the NMA approval in 2022, the plant will now generate biomethane intended to be fed back into the natural gas grid network. Development outside of the site required to facilitate the direct connection to the gas network will be undertaken by Cadent Gas. Deemed consent for this is granted by Part 15, Class A of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) (Order) 2015 subject to a prior notification.

Description of Proposal

13. Sutton Lodge Biogas Limited has made an application not to comply with planning conditions 1 (approved details), 18 (restriction on export of digestate), 26 (noise limits) and 29 (pipeline) of planning permission 2013/1538/03. In addition, it is also proposed to add a further condition to the planning permission which seeks to provide additional controls in respect of construction and operational traffic. The applicant has stated that the proposed amendments to the approved scheme are required to enable the facility to operate using more efficient updated technologies compared to those approved within the extant permission.

Approved Details

14. It is proposed to vary Condition 1 of planning permission 2013/1538/03 which states:

Unless otherwise required by this permission the development shall be carried out in accordance with the following details:

- a) *the planning application and accompanying environmental statement dated November 2009, including the revised Chapter 10;*
 - b) *Drawing No. GF261-01 Revision E; Drawing No. GF261-02 Revision B; Drawing No. L82.1/101B;*
 - c) *email dated 11 January 2010 from Barry Groves to Nick Wakefield;*
 - d) *document titled 'Project design for archaeological recording at Stoney Bridge, Broughton Astley (Sapcote), Leics' NGR SP 504929 dated 8th November 2013.*
15. Revisions to the layout and structures are sought in order to ensure that the facility would be compliant with the requirements of the Environmental Permitting regime (Regulated by the Environment Agency). The proposed amendments to the previously approved site layout would broadly include the following changes:
- Introduction of additional weighbridges (1 no. each entry and exit weighbridge).
 - Reduction in height of buildings.
 - Overall reduction in built footprint.
 - Relocation of approved infrastructure within an updated site layout including a one-way system for HGVs.
 - Introduction of odour treatment infrastructure.
 - The removal of a floor mounted gas holder.
 - Introduction of buried propane tank for gas upgrading.
 - Introduction of carbon dioxide (CO₂) recovery equipment to prevent release to atmosphere.
 - Introduction of an additional CHP, boiler and localised pump rooms; and
 - Maximised ventilation of structures to comply with current Environment Agency (EA) permitting requirements.
16. The proposed revisions to the approved layout and buildings would result in the reduction in height and scale of a number of the buildings/structures. The large tanks would retain the same footprint, albeit in a slightly amended location, but wall height would be reduced by 4m leading to a reduction in their overall volume from 22,800 cubic metres (m³) to 19,200m³, which equates to a 15% reduction in size. Both tanks would also be covered to enable gas storage and odour containment. The consented process tanks have a combined structural volume of 13,000m³, whilst the revised scheme would see this reduced to 12,820m³. The reception building would be reduced in size, with approximately 50% of the roof line reduced in height by 3.6m to 11.24m in height. This would result in a reduction in overall volume from 26,655m³, to 21,050m³.
17. In order to secure these changes, it is proposed that the wording of condition 1 is amended to the following:

Unless otherwise required by this permission the development shall be carried out in accordance with the following details:

- a) the planning application and accompanying environmental statement dated November 2009, including the revised Chapter 10;*
- b) Drawing Nos. STNL-ABE-LAY-001-DAD Site Layout Plan; STNL-ABE-LAY-003-C AD Site Elevations;*
- c) email dated 11 January 2010 from Barry Groves to Nick Wakefield;*
- d) document titled 'Project design for archaeological recording at Stoney Bridge, Broughton Astley (Sapcote), Leics' NGR SP 504929 dated 8th November 2013.*

Exportation of Digestate

18. The original planning application proposed that export of digestate by road and pipeline would only be undertaken between the months of March to September due to 'environmental restrictions' in place at the time the application was submitted, although did not specify what these were. Condition 18 of planning permission 2013/1538/03 is currently worded as follows:

'There shall be no exportation of digestate from the application site hereby permitted except during the months of March, April, May, June, August and September'.

19. The applicant states that Condition 18 conflicts with current agricultural best practice, which favours the year-round use of natural digestates over synthetic alternatives. In addition, the application states that the condition is worded such that it does not differentiate between the export of digestate from site by road or pipeline which causes conflict with widely established best agricultural practices. The applicant also indicates that the effect of this restriction would be to increase peak movements within the HGV movement cap set within Condition 16, due to removing the ability to manage smaller exports year-round.

20. It is proposed to amend the wording of condition 18 to the following:

'There shall be no exportation of digestate from the application site hereby permitted until a Digestate Management Plan has been submitted to and approved in writing by the Waste Planning Authority. The Digestate Management Plan shall include details of both liquid and solid digestate including the means of export and how it will be used to maximise agricultural and environmental benefits in accordance with the approved Operational Transport Management Plan (OTMP). A Digestate Management Plan, which shall also include a programme of implementation, shall be submitted to and approved in writing by the LPA and be implemented as approved and maintained for the duration of the development'.

21. In order to support the proposed variation of Condition 18, the applicant has provided a Digestate Management Strategy (DMS) which establishes the principles of future digestate export management in combination with an Operational Transport Management Plan (OTMP), which also forms part of the application.

22. The DMS provides further detail and justification for the need for year-round export of digestate. It states that farmers are proactively seeking to use sustainably

produced digestate to replace manufactured fertiliser in both the short and longer terms, noting that the introduction of the Carbon Border Adjustment Mechanism (CBAM) from 1 January 2027 would effectively impose a carbon tax on the latter. Reference is made to the need for a nutrient management plan as required by the *Reduction and Prevention of Agricultural Diffuse Pollution (England) Regulations 2018*. The document states that efficient use of nutrients is dependent on the timing, method of application, weather and soil conditions when the digestate is spread. It further adds that the optimum time varies with each crop type e.g. digestate spreading associated with the cultivation of winter wheat (spring, but depending on soil weather conditions, as early as mid-January); oilseed rape, (autumn with further application in late January to February) and grass (February through to October). The DMS states that weather, field and crop conditions provide only short windows of opportunity for the spreading of digestate and, as a consequence, it is more efficient to locate storage lagoons for liquid digestate at or close to the destination farms. It indicates that best practice would be to transport digestate to destination farms throughout the year so it can be stored ready for use, avoiding both the potential for short intensive 'campaigns' of traffic movements to the farms during the peak crop growth periods and delays in getting digestate to farms during busy periods. In conclusion, the DMS states that a storage volume equal to six months of production is required to ensure digestate need not be applied unnecessarily during October to March when weather and soil conditions may be inappropriate. Furthermore, applications should not be carried out if there is no crop need nor if field and weather conditions are inappropriate. The wording of Condition 18 incorrectly identifies the time periods when digestate should be exported from the Sutton Lodge Farm site and is both agronomically incorrect and logistically unhelpful.

23. The Operational Traffic Management Plan (OTMP) provides an assessment of the potential transport impacts associated with the operational phase of development at Sutton Lodge Farm as a result of the proposed variation of condition 18 as well as a strategy to mitigate the effects of traffic travelling to and from the site. It provides details of proposed traffic generation during the operational period, traffic routing for HGVs/tractors, loading and unloading arrangements, dust control measures and wheel wash facilities for vehicles accessing/egressing the site.

Noise Levels

24. The original application was accompanied by an acoustic assessment which was undertaken in September 2009. The conclusions of that assessment were carried forward into Condition 26 of planning permission 2013/1538/03, which states:

The noise levels attributable to the development when measured 3.5 metres from the most exposed façade of any noise sensitive property shall not exceed 41dB(A)_{L_{Aeq}} at Sutton Lodge Farm and 44dB(A)_{L_{Aeq}} at Fosse Farm and The Barnhouse during the hours of 07:00 – 22:00 and 33dB(A)_{L_{Aeq}} at Sutton Lodge Farm and 35dB(A)_{L_{Aeq}} at Fosse Farm and The Barnhouse during the hours of 22:00 – 07:00.

25. The applicant proposes an amendment to condition 26 to reflect current background noise levels. A noise assessment has been submitted with the

application which identifies that current baseline noise levels exceed the upper noise limits set within the existing condition. The noise assessment, which was undertaken continuously between 10 January and 17 January 2025, was carried out at three sensitive receptor locations: The Barnhouse, Fosse Farm and Sutton Lodge Farm. The outcome of that assessment was as follows:

Receptor	Daytime (0700 – 2300 hours) (LAeq, 16 Hour)	Nighttime – (2300 – 0700 hours) (LAeq, 18 hour)
The Barnhouse	50	42
Fosse Farm	51	40
Sutton Lodge Farm	46	40

26. Accordingly, an amendment to increase the soundscape LAeq noise levels to reflect existing 2025 LAeq levels is requested. The applicant has proposed that the wording of condition 26 is amended to the following:

‘The noise levels attributable to the development when measured 3.5 metres from the most exposed facade of any noise sensitive property shall not exceed 46dB(A)LAeq 12hour at Sutton Lodge Farm and 51dB(A)LAeq 12hour at Fosse Farm and The Barnhouse during the hours of 07:00 - 23:00 and 40dB(A)LAeq 12hour at Sutton Lodge Farm and 42dB(A)LAeq 12hour at Fosse Farm and The Barnhouse during the hours of 23:00 - 07:00’.

Use of Pipeline

27. Condition 29 states

No use of the development shall take place until a scheme for moving the digestate by pipeline has been submitted to and agreed in writing by the Waste Planning Authority. The scheme shall include details of the size, location, external materials and colours, volume, and annual throughput of the pipeline. The scheme shall also include details on the predicted noise caused by the pumping of any digestate (biofertiliser) and how potential leaks would be minimised. The approved scheme shall be implemented within 6 months of the development being brought into use and thereafter maintained as such.

28. The applicant has indicated that, at present, there is no anticipated use of a digestate pipeline associated with Sutton Lodge Farm AD, with all digestate to be initially exported by road. It is proposed that the vehicles importing feedstock to the facility would also be used to export the digestate back to the origin farms for appropriate storage and subsequent spreading as and when required. The applicant has also indicated that any pipeline would first require certainty of delivery before it would form part of a digestate export strategy. Accordingly, due to the lack of certainty relating to the pipeline and the lack of firm proposal to initially rely on the pipeline for export, the applicant has requested that the wording of Condition 29 be amended to allow the facility to operate in advance of details relating to the pipeline being discharged. In the event that the facility had access to a pipeline in the future, then the revised wording of Condition 29 would allow for the pipeline to be brought into use at that time following the submission of the details information as currently required by the condition. The applicant proposes to submit a detailed Digestate Management Plan containing all information prior to any pipeline being brought into use.

29. The application proposes the following amendments to the wording of condition 29:

No use of the pipeline shall take place until a detailed Digestate Management Plan including a scheme for moving the digestate by pipeline has been submitted to and agreed in writing by the Waste Planning Authority. The scheme shall include details of the size, location, external materials and colours, volume, and annual throughput of the pipeline. The scheme shall also include details on the predicted noise caused by the pumping of any digestate (biofertiliser) and how potential leaks would be minimised. The approved scheme shall be implemented within 6 months of the development being brought into use and thereafter maintained as such.

Traffic Management Plan

30. The final proposed amendment is the insertion of an additional condition which seeks to provide greater control in respect of construction and operational traffic. The condition is proposed following discussions with the highway authority at the time of the 2024 NMA. In support of this, the applicant has provided a Construction Traffic Management Plan (CTMP). The CTMP provides details of the proposed traffic routing (no left turn out of /no right turn into the site from Fosse Way), the construction programme (66 weeks), trip generation and traffic impacts in respect of HGV and construction staff traffic, construction management including measures to control construction noise, dust, dirt and emissions, and proposed traffic management measures including the use of a banksman, the creation of a secure site boundary, a highway condition survey pre, during and post construction.

31. The proposed condition is as follows:

'The construction of the development shall be carried out in accordance with the approved Construction Traffic Management Plan dated January 2025. Any deviation from the approved document must be approved in writing by the Local Planning Authority'.

32. No amendments are proposed in respect of daily vehicle movements, hours of operation or the annual throughput of the site.

Planning Policy

National Policy

National Planning Policy Framework (NPPF) (December 2024)

33. The NPPF sets out the Government's planning policies for England and is a material consideration in planning decisions. Paragraph 11 requires plans and decisions to apply a presumption in favour of sustainable development. For decision making this means:
- a) approving development proposals that accord with an up-to-date plan without delay; or

- b) where there are no relevant policies or the policies which are most important for determining the application are out of date, granting planning permission unless:
- (i) the application of policies in the NPPF that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or
 - (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land and securing well-designed places.

34. Section 4: Decision Making sets out the Government's policy with regard to decision making and states that local planning authorities should approach decisions on proposed development in a positive and creative way. Paragraph 56 requires local planning authorities to consider whether otherwise unacceptable development can be made so through the use of conditions or obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.

National Planning Policy for Waste (NPPW) (October 2014)

35. Paragraph 7 of the NPPW states that when determining waste planning applications, waste planning authorities should consider the likely impact on the local environment, amenity and the locational implications of any advice on health from the relevant health bodies; ensure that waste management facilities are well-designed and contribute positively to the character and quality of the area in which they are located; and do not concern themselves 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.

Waste Management Plan for England (WMPE) (January 2021)

36. The WMPE sets out the Government's aim of securing greater reuse and recycling rates across all waste streams, thereby moving waste up the hierarchy.

The Development Plan

37. The development plan for the application site is made up of the Leicestershire Minerals and Waste Local Plan 2019-2031 (adopted September 2019) (LMWLP), the Harborough Local Plan 2011-2031 (adopted April 2019) (HLP) and the Broughton Astley Neighbourhood Plan (BANP) (made January 2014). The principal policy considerations are set out below.

38. Leicestershire Minerals and Waste Local Plan 2019-2031 (adopted September 2019) (LMWLP)

- Policy DM1: Sustainable Development
- Policy DM2: Local Environment and Community Protection
- Policy DM5: Landscape Impact

- Policy DM9: Transportation by Road
- Policy DM10: Public Rights of Way

39. **Harborough Local Plan 2011-2031 (adopted April 2019) (HLP)**

- Policy GD1: Achieving Sustainable Development
- Policy GD3: Development in the Countryside
- Policy GD5: Landscape Character
- Policy GD8: Good Design in Development
- Policy GI15: Biodiversity and Geodiversity
- Policy CC1: Mitigating Climate Change
- Policy CC2: Renewable Energy Generation
- Policy CC3: Managing Flood Risk
- Policy CC4: Sustainable Drainage
- Policy IN2: Sustainable Transport

40. **Broughton Astley Neighbourhood Plan 2013 – 2018 (made January 2014)**

- Policy T1: Transport and Traffic Management
- Policy SD1: Presumption in Favour of Sustainable Development

Other Policy Considerations

41. **Harborough District Council is currently in the process of producing a new Local Plan. Work is at a relatively advanced stage with a consultation under Regulation 19 of the Proposed Submission Draft Plan 2020-2041 undertaken between 10 March – 6 May 2025. The emerging plan therefore has some weight as a material consideration. Draft policies relevant to the proposal are:**

- Draft Policy DS03: Tackling Climate Change and Enhancing the Natural Environment
- Draft Policy AP04: Development in the Countryside (Commercial/Non-Residential)
- Draft Policy AP05: Locating Renewable and Low Carbon Energy development
- Draft Policy DM01: High Quality Inclusive Design
- Draft Policy DM02: Amenity and Wellbeing
- Draft Policy DM04: Landscape Character and Sensitivity
- Draft Policy DM06: Transport and Accessibility
- Draft Policy DM07: Managing Flood Risk
- Draft Policy DM08: Sustainable Drainage
- Draft Policy DM09: Sustainable Construction and Climate Resilience

42. **A review of the Broughton Astley Neighbourhood Plan commenced in 2023, although no updated draft plan is available to view. The plan review has no weight as a material consideration.**

Consultations

43. **Harborough District Council – Comments**

44. Harborough District Council (HDC) raise concerns that the proposal will lead to harmful impacts on neighbour amenity by increased noise and disturbance and the intensification in respect of traffic movements on the limited road network and especially through nearby villages.
45. HDC also cited the applicant's statement that the reason for the application is due to a change in the type of waste processed at the site, with "food waste [is] no longer envisaged to be as significant a feedstock for the project". HDC commented that the Environment Act 2021 brought in a mandatory duty for all Local Authorities to provide a kerbside food waste collection service and expressed concern that at a time when increasing numbers of facilities are required to deal with household food waste, the proposal would decrease that provision. We ask that colleagues at LCC give weight to this material consideration in the planning balance.
46. **Broughton Astley Parish Council – Objection**
47. Broughton Astley Parish Council (BAPC) raise no objections to the proposed variation of condition 1, but strongly object to the proposed variations to conditions 18, 26 and 29.
48. With regard to condition 18, the introduction of a one-way system for the lay-by at the Fosse Way junction is a major concern, creating significant difficulties when entering/exiting the site onto the B4114 (Coventry Road) which has a 50mph speed limit. Concern was also raised regarding the potential for debris accumulating on the B4114, which due to a bend at its junction with Fosse Way, would pose a safety risk for cyclists and motorists.
49. BAPC has deep concern regarding any potential increase in noise levels. The area is a peaceful rural location, and any elevated noise levels would disturb the tranquillity of the surrounding area. Increased noise levels would be audible over a wide area, increasing impacts to local residents and local wildlife.
50. With regard to condition 29, BAPC consider that retaining the pipeline would be preferable as it would significantly reduce the number of vehicular movements to and from the site, alleviating potential traffic congestion, reducing carbon emissions and minimising environmental impact of the project.
51. **Frolesworth Parish Meeting – Objection**
52. Frolesworth Parish Meeting (FPM) notes the number of changes made to the scheme since its initial approval in 2010, stating that this application represents a tipping point where the application is now so changed from the original that a new full application should be submitted. In support of this argument, FPM refers to the proposed changes in inputs from the original application, commenting that the growing of non-indigenous crops as waste to feed the plant would result in considerable adverse changes to the landscape of South Leicestershire leading to conflict with policy *"The Government's policy is that the primary purpose of agricultural land should be for growing food."*
53. FPM also notes that it is not proposed to use the pipeline for export of digestate at this time and raises queries regarding the size, scale and routing of the

pipeline; the scale of the pipeline's pumping station; how many pipelines there will be and what impact they could have on the landscape.

54. The impact of year-round vehicle movements to and from the site on the communities is not adequately addressed. Also, the consequences of run-off into waterways with a 100% increase in the number of months is not assessed. These changes require a new application.
55. The previous planning permission (2013/1538/03) achieved a balance of thirty-two conditions in order to protect the countryside location, the needs of those involved with the plant and the public who would be affected by it. This balance should be disrupted only if there are compelling reasons to do so which FPM consider there are none.
56. Proposal to vary condition 1: The change in plans make visible why a new application is in the interest of all concerned. FPM suggest that the proposal to vary should be refused.
57. Proposal to vary condition 18. The Council refused this in November 2024 and there are no sound reasons to change its decision (2024/NMA/00119/LCC). The activity of transporting digestate for twelve months of the year, rather than the approved six, would have an adverse impact on the amenity of the countryside location, the amenity of the public, including the many visitors to the area, especially those visiting the close-by Fosse Meadows Country Park by car, on foot, by bicycle and by public transport. No evidence is presented for the "best practice..." *"...which favour the year-round use of natural digestates over synthetic alternatives,"* On 27 September 2024 DEFRA posted *"The closed period prohibits the spreading of organic manures (excluding dirty water), from midnight 15 October to midnight 31 January."* The six months of export of digestate was agreed with the applicant and the Council as a result of the needs of the local farmers and for the amenity of the location and communities. A 100% increase in the months of export is a significant material change, which appears to reinforce the need for a new application. Consequently, FPM believe the proposal to vary condition 18 should be refused.
58. Proposal to vary condition 26. The Council's reason for this condition is: *"To ensure that the development does not become a source of adverse noise levels in the locality."* There is no sound reason for variance. Consequently, FPM believe this proposal should be refused.
59. Proposal to vary condition 29. Until the applicant removes the ambiguity concerning the proposed pipeline, no useful purpose would be served by varying the existing condition. The Council's sound reason for the condition is; *"This consent is granted only because of the potential to secure specific benefits for the export of digestate products within the local agricultural area and the consequential reduction in traffic generation in the local highway network."* It is trusted that a new full application would make clear the status and impact of the proposed pipeline. FPM believe the proposal to vary should be refused.
60. Proposal for an additional, 33rd condition. The transport plans submitted rely on doubling the months vehicles and trailers use local highways. This has been refused already and should be dismissed again. Under these circumstances an extra condition serves no useful purpose.

61. **Environment Agency (EA)** – No objection.
62. The EA raised no objections to the proposed variation of condition and provided informative notes regarding the need for an Environmental Permit and the assessments made as part of that process including techniques for pollution control including in process controls, emission control, management, waste feedstock and digestate, energy, accidents, noise and monitoring; emission benchmarks for combustion products, temperature and pH; and air quality impact assessment, including odour and Habitats Regulations Assessment.
63. **Leicestershire County Council - Local Highways Authority (LHA)** – No Objection
64. The LHA initially objected to the proposed revision of condition 18 and the proposed insertion of a new condition (no.33) due to a lack of information relating to abnormal loads, parking for construction staff, measures to restrict vehicle movements during the AM and PM highway network peaks and wheel washing facilities. Following the submission of additional information, the LHA has withdrawn its objection, making the following comments:
65. 'Condition 18 – Exportation of Digestate

The LHA previously advised while it appreciated the Applicants intention to avoid vehicle movements during the highway peak hours, it would expect the OTMP to contain firmer measures in relation to how it would ensure deliveries will be spread out and that no deliveries will be scheduled within the network peak hours. It was advised this could impact on the free flow of traffic on the B4114, which would be considered contrary to Policy 2 of the Leicestershire Highway Design Guide (LHDG).

The Applicant has indicated in Paragraph 3.2.4 of the OTMP that the HGV/ tractor contractors will utilise tracking software on the operational vehicles to ensure that HGV movements do not occur during the typical network AM or PM peak hour. Furthermore, this approach will ensure that deliveries do not exceed the daily limits of 46 HGVs during any 24-hour period which was set out within Condition 16 of the 2013/1538/03 Section 73 application.

The LHA understands that the software provides location history for each vehicle which provides details on the paths travelled which will help to ensure that operational vehicles follow the routes outlined within Section 4 of the OTMP.

In addition, Paragraph 4.1.4 outlines some measures the Applicant will use to enforce the policy, which includes a 'three strikes and you are out policy' should a contractor not adhere to the traffic restrictions. The LHA considers the proposed measures outlined within the OTMP to be acceptable.

The LHA also previously advised that the OTMP should include the location of wheel washing facilities and that these should be located a minimum of 15m from the highway boundary to prevent water runoff draining into the highway. Paragraph 4.5.1 of the OTMP now states wheel washing facilities will be located at least 15m from the highway boundary.

Whilst the LHA cannot see the location of the wheel washing facilities shown on the drawing within Appendix 1 of the OTMP as stated, the CPA has highlighted documents submitted in order to discharge condition 11 of application reference 2013/1538/03. This details a permanent wheel washing facility situated well within the site.

Given the above, the LHA advises it now has no objection to the variation of condition 18'.

66. 'Proposed Condition 33

Whilst the LHA previously advised it supported the implementation of the condition; it advised additional information was required.

The LHA previously advised that Roman Road is a two-way single carriageway that varies in width between approximately 3.1m and 5.3m. A 7.5 tonne weight limit (with exception for loading) is in place and the carriageway is particularly narrow across the River Soar Bridge. Therefore, the LHA were concerned over reference within the CTMP that Abnormal Indivisible Load Vehicles (AILV) will need to access the site.

The LHA advised it was concerned over the suitability of the existing highway to cater for such movements and further consideration of the proposals were taking place. To assist with these investigations, the LHA asked the Applicant to provide the following information:

- *The number of AILV trips to the site;*
- *The planned route of these vehicles;*
- *Tracking drawings for the entire route to demonstrate these movements can be safely accommodated; and*
- *Any structural assessments carried out by the Applicant in relation to the River Soar bridge in relation to these movements.*

The Applicant has now removed all reference to AILVs from the revised CTMP and stated within Paragraph 4.2.1 that standard articulated 16.5m HGVs will be the largest vehicle expected to access the site. The CPA has contacted the Applicant in respect of AILVs for further clarity and it has been confirmed in an email dated 3 June 2025 that there is no need for such vehicles to access the site at any time. On this basis, the LHA provides no further comment on AILV's.

The LHA also asked the Applicant to provide a full scaled drawing which showed adequate parking for contractors/ HGVs and manoeuvring space within the site. The Applicant has now provided Local Transport Projects drawing number LTP/5404/T1/01.01 within Appendix 3 of the CTMP. The drawing details swept path analysis of a car and HGV throughout the site. Whilst it is noted only seven car parking spaces are shown within the site, and up to 50 members of staff could be on-site during construction, it is accepted that the Applicant has stated within Paragraph 7.6.1 of the CTMP that adequate parking would be provided within the site for all staff and that parking off-site would not be permitted. The LHA considers the site should be sufficient in scale to accommodate additional staff parking as necessary

during construction and accepts that vehicles would be able to turn within the site to ingress/ egress onto the highway in a forward gear.

The LHA previously advised it would not support deliveries within the network peak hours as this could impact on the free flow of traffic on the B4114 which would be considered contrary to Policy 2 of the LHDG. The Applicant has confirmed within Paragraph 5.2.14 that no deliveries would be undertaken within the typical network peaks of 08:00 – 09:00 and 17:00 – 18:00. Some measures the Applicant would undertake to enforce HGV restrictions and timings have also been provided in Paragraph 7.3.1 of the CTMP.

It was previously advised that wheel washing facilities should be located a minimum of 15m from the highway boundary to prevent water runoff draining into the highway and that this should be detailed on a full scaled drawing. The Applicant has confirmed this within Paragraph 6.5.2 of the CTMP.

Whilst the LHA cannot see the location of the wheel washing facilities shown on the drawing within Appendix 1 of the CTMP as stated, as per the above the CPA has highlighted documents submitted in order to discharge condition 11 of application reference 2013/1538/03. This details a permanent wheel washing facility situated well within the site.

Given the above, the LHA advises it now has no objection to the addition of condition 33, however it is requested the CPA updates the wording of the proposed condition to reflect the most recent CTMP (and latest correspondence from the Applicant)'.

67. The LHA also requested the insertion of a further condition preventing larger vehicles accessing/egressing the site and provided a number of informative notes for the applicant relating to works in the public highway, the erection of directional signage and access to the highway network during the construction period.
68. **Leicestershire County Council Public Rights of Way** – No comments
69. **Leicestershire County Council Ecology** – No comments.
70. **Leicestershire County Council Landscape** – No objection.
71. **National Gas** – No comment.
72. **Health and Safety Executive (HSE)** – No objection.
73. The proposed development does not lie within the Consultation Zone of any of the major hazard sites or major accident hazard pipelines considered by HSE. Therefore, based on the information provided there is no need to consult HSE's Land Use Planning advice team on this application, and we have no comments to make.
74. **Leicestershire County Council - Public Health** – comments received. As a party with an interest in broader air quality as part of its overall duty to take steps

to improve the health of the population, LCC Public Health wishes to highlight the below for consideration in the context of air quality and health. This application is not in an Air Quality Management Area (AQMA). The nearest AQMA is Kibworth AQMA Pollutants Declared: 29/11/2017, Nitrogen dioxide NO₂ - Annual Mean. The previous Lutterworth AQMA was revoked in June 2024. Inhale – Interactive Health Atlas of Lung Conditions in England (Office for Health Improvement and Disparities - Fingertips Public Health data) information indicates the following:

- Chronic Obstructive Pulmonary Disease (COPD): Quality and Outcome Framework prevalence (all ages) for 2023/24 is 1.6%, which is below the England value of 1.9% and the East Midlands value of 2.0%.
- Mortality rate from COPD, all ages for 2021-2023 is 26.8 per 100,000 in Harborough which is lower (better) than the England value of 44.1 per 100,000 and East Midlands value of 43.9 per 100,000.
- 2023/2024 data for Asthma: Quality and Outcome Framework prevalence 6+ for Harborough is 7.0% higher (worse) than the East Midlands value of 6.8% and England value of 6.5%.
- Under 75 mortality rate from respiratory disease considered preventable for 2021-2023 for Harborough is 9.1 per 100,000

75. **Local Member – Mr. B. Piper CC** (Broughton Astley ED) (consulted following the County Council elections on 1 May 2025) – has been notified of the proposal and is a member of the Board so will be able to make comments during the meeting.

76. **Former Local Member – Mr N Bannister CC (Broughton Astley ED)** (consulted prior to County Council elections on 1 May 2025) – objection.

77. Mr Bannister made the following comments and requested that the application was called-in for determination by DCRB:

‘The application to vary condition 1 is so extensive so as to be, in effect, a new application for which would be a better vehicle to consider the wide-ranging changes to the original planning consent.

2. The application to vary condition 18 seeks the activity of transporting digestate for twelve months of the year, rather than the approved six. This would have an adverse impact on the amenity of the countryside location, the amenity of the public, including the many visitors to the area, especially those visiting the close-by Fosse Meadows Country Park by car, on foot, by bicycle and by public transport.

3. The application to vary condition 26 would allow for elevated noise levels that would disturb the tranquillity of the surrounding environment.

4. The application to vary condition 29 is ambiguous. Until the applicant removes the ambiguity concerning the proposed pipeline, no useful purpose would be served by varying the existing condition.

5. Proposal for a further condition (no.33) - The transport plans submitted rely on doubling the months vehicles and trailers using local highways. The Council have previously considered and refused a previous similar application and there

is little difference to the previous application and the new one. Under these circumstances an extra condition would serve no useful purpose.'

78. **Mrs. R. Page CC (Lutterworth ED) (adjacent ward member)** – objection. Fully supports the comments of Frolesworth Parsh Meeting.
79. **Cadent Gas, Harborough District Council Environmental Health, Natural England, Sapcote Parish Council, Severn Trent Water, UK Health Security Agency (UKHSA)** - have not responded at the time of writing this report. Any response received will be reported verbally.

Publicity and Representations

79. 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. One letter of representation, objecting to the proposal, has been received as a result of the publicity. The objection refers to the FPM response as containing the main points of objection but also includes the following points:
- The proposed revisions should be subject to a new full application;
 - Lack of details relating to the proposed digestate pipeline;
 - Lack of details relating to the proposed connection between the AD plant and the gas transmission system;
 - Lack of details regarding the volume and nature of waste that will be produced;
 - AD as a technology is flawed political thinking resulting in proposals such as Sutton Lodge Farm AD facility;
 - The development maximises subsidy at the public's expense;
 - Growing and harvesting of food crops as waste would be contrary to government policy relating to food security and the waste hierarchy;
 - The use of maize/other cereals as main feedstock would adversely affect soils and water quality and the landscape of Leicestershire;
 - The effect of AD technology in climate change is minimal;
 - Lack of information regarding feedstock origin;
 - Shell company as applicant gives lack of confidence.
80. The representation also referred back to previous comments made in respect of 2024/NMA/0119/LCC. For reference these were:
- No consent has been given for a pipeline;
 - an underground drain runs between the plant site and the River Soar which would result in year-round pollution of the River Soar;
 - Growing and harvesting of food crops as waste would be contrary to Government policy relating to food security and the waste hierarchy;
 - The use of maize/other cereals as main feedstock would adversely affect soils/ landscape of Leicestershire;
 - The changes would indirectly support the practice of factory farming;
 - Year round spreading of digestate on agricultural land increases risk of run-off and pollution of River Soar with nitrates;
 - Excess profits of AD plant are unacceptable in current economic climate.

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

Assessment of Proposal

82. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise.
83. The applicant seeks to vary conditions 1, 18, 26 and 29 of planning permission reference: 2013/1538/03 in order to revise the approved site layout, allow for the export of digestate 12 months a year; update permitted noise limits; and to allow for operations to commence before details of the digestate pipeline have been submitted. It is also proposed to insert a further condition requiring the submission of a construction management plan to provide greater control in respect of traffic movements to and from the site. The relevant considerations in respect of this proposal relate to landscape and visual impacts, noise impacts, impacts to environmental amenity associated with alternative methods of exporting digestate and impacts to highway safety.

Principle of Development

84. The principle of the development of an AD facility at this site has been established by the 2010 planning permission (Ref: 2009/1488/03) which was subsequently varied by planning permission 2013/1538/03. The 2010 planning permission has been lawfully implemented, and the operator is entitled to operate a facility at this site under the terms of the existing planning permission. The principle of the development is still the same as previously approved but changes to the facility's design are now considered necessary to bring it in line with the current requirements of the environmental permitting regime. Further amendments are also requested to bring operations in line with current agronomic practice, an updated acoustic baseline and a proposed delay in installing the pipeline to be used for export of digestate to the surrounding agricultural land. The proposed amendments would not result in a development that is significantly different from the development previously approved, which is acceptable in this location and it is considered that the development would continue to accord with Government's sustainable waste management objectives.
85. The potential environmental and amenity impacts of this development were assessed and found to be acceptable during the consideration of the original application. However, in the context of the current development plan, the NPPF and PPG, consideration has been given as to whether the development, as changed, would be likely to give rise to any significantly different or additional impacts to that which was previously considered. In this respect, the main issues that need to be considered are the need for the proposed amendments, the potential landscape and visual impacts associated with the revised site layout, noise and highway safety.

Need for Development

86. Within the submitted supporting covering letter, the applicant has indicated that the purpose of the application is fourfold: to bring the scheme in line with the legislative requirements of the Environmental Permitting (England and Wales) Regulations 2016; to allow greater flexibility to operations in terms of the mode and timing of the export of digestate, allowing for greater alignment with the modern agronomic calendar and agricultural practice; to allow the AD facility to commence operations without the need to submit details of the digestate export pipeline in advance; and to ensure that the requirements of condition 26 (noise limits) are capable of being met.
87. Due to the period of time which has elapsed since planning permission was originally granted and implemented, legislative changes, including the need for secondary containment of tanks and additional odour abatement requirements, have resulted in a need to make changes to the previously approved plant and feedstock reception building. It is noted that the proposed amendments are designed to ensure compliance with the changes to legislation and, under those circumstances, in principle, it is accepted that there is a need for amendments to the design of the plant and structures to be made. Likewise, since 2009, it is recognised that changes may have occurred to the acoustic environment in the locality of the site which necessitates the reassessment of background noise levels.
88. With regard to the proposed removal of the restriction on the export of digestate and the associated stated intention not to bring the pipeline into use immediately, it is acknowledged that the export of digestate by road from the site 12 months a year would, to some degree, provide the applicant with greater flexibility to respond to the demand for the digestate as a product. This consideration must be balanced against the social and environmental considerations which are outlined below.

Landscape and Visual Impact

89. Policy DM5 of the LMWLP seeks to ensure that proposals for minerals and waste development are well designed, contributing positively to the character and quality of the area in which they would be located. Policy GD5: Landscape Character of the HLP seeks to avoid detriment / unacceptable impacts to local landscape and its character. HLP Policy GD8: Good design in development seeks to secure a high standard of design for all development, including inter alia, respecting the context and characteristics of the individual site, street scene and the wider local environment to ensure that it is integrated as far as possible into the existing built form.
90. Paragraph 135 of the NPPF requires planning decisions to ensure that development will function well and add to the overall quality of the area, over the lifetime of the development. It also directs development to be visually attractive as a result of appropriate and effective landscaping; and be sympathetic to local character and history, including, inter alia, the surrounding landscape setting.
91. Overall, in terms of positioning and orientation, the proposed revised layout would not be significantly different to the previously approved scheme. Whilst some of the structures would extend slightly further to the west and south-west than previously approved, this would not require the relocation / realignment of

the landscape bund which forms part of the wider site layout, and the structures would still be capable of being contained within the footprint of the 'operational' south-eastern part of the site as per the original planning permission. Viewed in the context of the overall scheme, this is not considered significant and would not be visually discernible at the landscape scale. In addition, as described above, the proposed revisions would also see the reduction in height and scale of many of the largest structures including the tanks, the reception building and the process tanks. It is considered that the reduction in scale and height of the structures would be beneficial, reducing the visual impact of the proposals on the surrounding landscape.

92. It is noted that condition 5 of the existing planning permission includes a requirement for a lighting scheme which is based on the previously approved site layout. A consequential impact of the proposed revised layout is that the approved lighting scheme could not be constructed. It is therefore recommended that, in the event that planning permission is granted, condition 5 be amended to require the submission of an updated lighting scheme, based on the current proposal.
93. Subject to the above, it is considered that the proposed revised layout would not result in significant landscape and visual impacts when compared to the consented scheme. Furthermore, the proposed revisions would result in a scheme with an overall reduced footprint and height which would be beneficial in terms of reducing landscape impacts. The request to amend the wording of condition 1 is therefore considered acceptable and would accord with the requirements of LMWLP policy DM5, HLP policies GD5 and GD8, the NPPF and the NPPW in respect of landscape and visual impacts.

Traffic, Access and Parking

94. Policy DM9 of the LMWLP supports proposals involving the transport of minerals and waste by road where it is the only practicable and environmentally preferable option; the proposed access arrangements would be safe and appropriate for the proposed development and impacts on road safety would be acceptable. The policy also requires proposals to demonstrate that the highway network is able to accommodate the traffic that would be generated and would have an acceptable impact on residents. Proposals should be in close proximity to the strategic road network and not result in unnecessary impacts on residential areas and minor roads. Policy GD8 of the HLP seeks to ensure the safe, efficient and convenient movement of all highway users including bus passengers, cyclists, pedestrians and horse riders.
95. Paragraph 116 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, following mitigation, would be severe, taking into account all reasonable future scenarios. Paragraph 118 requires all developments that will generate significant amounts of movements to provide a travel plan and all applications should be supported by a vision led transport assessment so that the likely impacts of the proposal can be assessed and monitored.
96. The principle of the development of an AD facility in this location has previously been assessed and found to be acceptable in highway terms subject to

conditions and the requirements of a legal agreement. This application proposes the relaxation of condition 18, which currently restricts the export of digestate from the site (by both road and pipeline) to between the months of March and September only, to allow the export of digestate year-round. The applicant has also indicated that, initially, the pipeline would not be taken into use, which would result in 100% digestate being exported from site by road.

97. The planning permission is subject to restrictions in terms of annual throughput (55,000 tpa) and daily HGV movements (46 (23 in/23 out)) and these would not change under the current proposal. No restrictions are currently placed on the import of feedstock to the site and therefore the planning permission already allows for HGV movements to and from the site 12 months of the year. It is proposed that the digestate would be 'backhauled' to the origin farms in the vehicles used to import feedstock to site. It is therefore unlikely that the proposed amendments to conditions 18 and 29 would result in impacts to highway safety over and above what is already permitted. It is further noted that the LHA raises no objections to this aspect of the proposal and that they are also of the view that the change would facilitate a more even spread of vehicle movements on a year-round basis as opposed to seasonal fluctuations.
98. The applicant has provided detailed information relating to the management of site traffic during the construction (CTMP) and operational phases (OTMP) including, amongst other things, the timing and routing of HGVs, vehicle manoeuvring and parking space during the construction period. They have also confirmed that, in consideration of the narrow bridge, no abnormal loads would be required during the construction phase. Following the submission of the revised CTMP and OTMP, the LHA has no objection to the proposed variation to the wording of condition 18 or the proposed CTMP. The LHA has recommended the addition of an additional condition restricting the use of abnormal load vehicles during the construction period and this has been added (as condition 34) in Appendix A to this report. This control, combined with the existing requirement contained within condition 9 for remedial works to be undertaken to the narrow bridge prior to the commencement of construction works would be sufficient to ensure that there would be no risk to highway safety resulting from the use of HGVs to and from the site.
99. Concerns have been raised regarding the implementation of a one-way system for HGVs/tractors accessing/egressing the site before entering the B4114 (Coventry Road). Whilst such concerns are noted, this arrangement formed part of the original proposal, was found to be acceptable by the LHA and, because it required a number of off-site highway works to be undertaken, was subsequently secured as a requirement of the legal agreement. Furthermore, the LHA has been consulted in respect of this application and has not raised any concerns regarding this aspect of the scheme.
100. Reference is also made to the previous refusal of the non-material amendment by this Authority on November 2024 (2024/NMA/0119/LCC) citing this as an illustration that the current proposal is unacceptable in highway terms. This interpretation is incorrect. The refusal of 2024/NMA/0119/LCC related solely to the proposed amendment being considered a 'material' change and therefore not appropriate for consideration via a non-material amendment.

101. In light of the above, and subject to the imposition of the recommended condition, the proposed amendments to conditions 26 and 29 and the proposed insertion of a new condition 33 are acceptable in highway safety terms and accord with the requirements of LMWLP policy DM9, HLP policy GD8 and paragraph 116 the NPPF.

Noise

102. Policy DM2 of the LMWLP seeks to ensure that the effects of noise to adjoining land uses and users and those in close proximity to the proposal would be acceptable. HLP Policy GD8 (e) (ii) is supportive of development which has been designed to minimise impacts on the amenity of existing and future residents by not generating a level of activity or noise which cannot be mitigated to an appropriate standard.
103. Paragraph 187 e) of the NPPF requires planning decisions to contribute and enhance the natural and local environment by preventing new and existing development from contributing to unacceptable levels of, inter alia, noise pollution. Criterion J of Appendix B, Locational Criteria of the NPPW provides guidance on the matters for consideration in respect of noise associated with waste development including proximity of sensitive receptors, time, type and nature of the noise, including the potential for nighttime operations.
104. Consultation responses received from BAPC and FPM refer to the potential increase in noise impacts associated with the proposed amendment to condition 26. Such impacts relating to the effect of elevated noise levels on the tranquillity of the surrounding rural area, and on the amenity of local residents and wildlife.
105. A noise assessment was submitted in support of the proposal. The noise monitoring results indicate that current background noise levels at the nearest sensitive receptors are currently higher than the noise limits currently set by condition 26. It is noted that during the daytime, background noise levels, measured as LAeq,T, were recorded as being 5dB higher at Sutton Lodge Farm and 7dB and 6dB higher when compared to 2009 background noise levels at both Fosse Farm and The Barnhouse respectively. During the nighttime, background noise levels were assessed as 6dB higher at Sutton Lodge Farm and 7dB higher than previously measured at both Fosse Farm and The Barnhouse. For clarity, the comparison is set out in the table below.

Sensitive Receptor	2009 Daytime (0700-2200 hours)	2025 Daytime (0700 – 2300 hours) (LAeq, 16 Hour)	Difference dB	2009 Night-time (2300-0700 hours)	2025 Nighttime – (2300 – 0700 hours) (LAeq, 8 hour)	Difference
Sutton Lodge Farm	41	46	+5	33	40	+7
Fosse Farm	44	51	+7	35	40	+5
The Barnhouse	44	50	+6	35	42	+7

106. No specific guidance has been produced which relates to the control of noise at waste sites. However, Planning Practice Guidance (PPG) (paragraph 001, ref 30/001/20190722, accessed 19 May 2025) says that noise needs to be considered when development may create additional noise, or would be sensitive to the prevailing acoustic environment (including any anticipated changes to that environment from activities that are permitted but not yet commenced). Paragraph 003 of PPG says that decision making needs to take account of the acoustic environment and consider: whether or not a significant adverse effect is occurring, or likely to occur; whether or not an adverse effect is occurring or likely to occur; and whether or not a good standard of amenity can be achieved.
107. The application seeks to amend the wording of condition 26 so that reference is made to 2025 background noise levels. This replicates the approach taken by the 2009 planning permission. Whilst it would be more usual to predict noise levels associated with any development based on background plus any predicted noise impacts associated with a development, in this instance the applicant has confirmed their ability to operate within the 2025 baseline levels with no uplift or headroom.
108. It is noted that the site is relatively distant from neighbouring properties, the nearest being 300m from any site operations. Furthermore, planning permission 2013/1538/03 also contains additional conditions which are designed to minimise noise impacts on the surrounding area. Condition 27 requires the site to employ several best practice measures to ensure that noise impacts associated with the development are kept to a minimum whilst condition 28 requires all loading, unloading, processing, sorting, bailing and storage of waste materials to take place within the reception building. Condition 4 restricts deliveries to and exports from the site to between 0600 and 1800 hours, Mondays to Fridays and between 0600 and 1300 hours on Saturdays with no HGV movements permitted on Sundays, Public or other Bank Holidays. With such measures in place, it is considered that sufficient controls are in place to ensure that no adverse noise impacts would arise.
109. Whilst it is noted that the amended condition would result in noise limits which are between 5dB and 7dB higher than the current planning permission, in consideration of the fact that these higher limits are based on the current noise baseline, the distance between the site and the nearest sensitive receptors as well as the environmental controls provided by the other conditions of the permission, it is considered unlikely that the increase would result in significant adverse effects in respect of noise. It is also noted that, in light of the updated acoustic information, the existing condition is unlikely to meet the condition tests set out in paragraph 57 of the NPPF as it would not be reasonable or enforceable.
110. In light of the above and subject to the imposition of the recommended condition, it is considered that the proposed amendment to condition 26 would be acceptable in respect of impacts to noise and would accord with the requirements of LMWLP policy DM2, HLP policy GD8 and paragraph 187(e) of the NPPF.

Pipeline

111. The applicant seeks to amend condition 29 to allow operations at the facility to commence without the need to provide detailed information regarding the appearance, routing, operation and impacts associated with the use of the digestate pipeline. Instead, it is proposed that such information, in the form of a detailed Digestate Management Plan, be provided prior to the pipeline being brought into use. The applicant has indicated that, at present, there is no anticipated use of a pipeline associated with Sutton Lodge Farm AD with all digestate initially exported by road. The application documents also state that any pipeline would first require certainty of delivery before it would form part of a digestate export strategy.
112. The precise route of the digestate pipeline is currently undetermined, although the original application documents indicate that the pipeline will have a diameter of 6 inches and would run across agricultural land at ground level between the AD facility and distribution points on adjacent agricultural land. The application provided a drawing showing the indicative location of land in the locality of the site where the digestate could be spread, although the planning statement made it clear that such locations were subject to further negotiation with landowners. Condition 29 was subsequently imposed on both the 2010 and 2014 permissions requiring the submission of detailed information about the pipeline prior to it being brought into use. The reason for the imposition of the condition is given as *'This consent is granted only because of the potential to secure specific benefits for the export of digestate products within the local agricultural area and the consequential reduction in traffic generation on the local highway network'*.
113. Notwithstanding the pre-commencement nature of condition 29, it is considered that the decision as to whether the pipeline should be brought on-line immediately or at some future date is ultimately an issue for the operator rather than a planning matter. Since the original planning permission was granted, the Government has sought to reduce the number of pre-commencement conditions imposed on planning permissions except in those circumstances where there is a clear justification e.g. where the requirements of the condition are so fundamental to the development permitted that it would otherwise be necessary to refuse the whole permission. In this respect, it is noted that the planning permission does not prohibit the operation of the AD facility if the pipeline is not constructed, neither does it set respective limits in terms of the volumes of digestate exported by either road or pipeline. There would be no increase in either the annual throughput of the facility or daily HGV limits to/from the site if the delivery of the pipeline were to be delayed and it is therefore unlikely that the proposed delay in the pipeline would result in adverse impacts to highway safety or local amenity over and above those which could already occur. In principle, therefore, the proposed amendment to condition 29 is considered acceptable.
114. The planning permission boundary associated with 2009/1488/03 is drawn tightly around the AD facility and the access road and does not make provision for any pipeline. Section 55(1) of the Town and Country Planning Act 1990 defines development as *'...the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land'*. The proposed installation and subsequent use of a pipeline to export digestate from the site is development which should require planning permission. Whilst it is noted that condition 29

seeks to control the scale, form and impacts associated with the proposed pipeline, the use of a condition is not an appropriate mechanism to approve development which would normally require planning permission in its own right, particularly where that development would be located outside the planning permission boundary. Paragraph 57 of the NPPF states that 'planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. In this instance, and despite the acceptability in principle of the applicant's proposed amendments, it considered that condition 29 would not be enforceable and it is recommended that it be removed from the planning permission. There would be no disbenefit to the environment or the local community as a result of the removal of condition 29 as the environmental and amenity impacts of any pipeline would be assessed during the determination of any subsequent planning application.

Feedstock Mixture / Food Waste

115. The concerns regarding proposed amendments to feedstock are noted. However, whilst the original application documents do provide estimates relating to the range, mix and origin of feedstocks, those documents also state that they are indicative and subject to contract. The planning permission includes a condition (no. 17) with sets limits on the mix and volume of each type of feedstock e.g. no more than 55,000 tonnes of food and agricultural wastes/crops per annum of which no more than 35,000 tpa should be food waste. The applicant has not requested that this condition is amended, and it is expected that the facility would operate within its terms. It is therefore not considered that the applicant's stated anticipated mix of feedstocks would represent a material change that would require the submission of a new planning application.
116. Similarly, it is not considered that HDC's ability to meet the mandatory requirement of the Environment Act 2021 for all local authorities to provide a kerbside food waste collection would be affected by the current proposals. Condition 17 sets an upper limit to the volume of food waste that can be imported to the facility within any year but does not impose an obligation on the developer to meet that annual limit. The applicant has provided clarification on this matter, stating that whilst the 'Simpler Recycling' initiative will result in an uplift in the availability of food waste with the potential to go into the facility, its timing and implementation remains uncertain, with contracts subject to public procurement rules. As a consequence, there remains a significant degree of uncertainty regarding the guaranteed minimum volumes that would be available for processing. In order to provide greater initial certainty on the availability of material, the applicant is therefore seeking to contract substantial volumes of agriculturally derived wastes, residues and co-products. In conclusion on this matter, the applicant is not proposing to amend the terms of condition 17 and would retain the ability to accept food waste as a feedstock, including that derived from kerbside collections. Whilst initial volumes of food waste are lower than previously indicated, the applicant would still be operating within the terms of the planning permission.

Pollution to Surface Waters

117. LMWP policy DM2: Local Environment and Community Protection is supportive of proposals where it can be demonstrated that the potential effects of run-off to adjoining land uses and land users and those in close proximity to the proposal would be acceptable. Policy GD8: Good Design in Development of the HLP permits development where it achieves a high standard of design including, at criterion e(ii) not generating a level of pollution which cannot be mitigated to an appropriate standard and so would have an adverse impact on amenity and living conditions. Paragraph 198 of the NPPF (December 2024) requires planning decisions to ensure that new development is appropriate for its location taking into account the likely impacts of pollution on, amongst other things, the natural environment as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.
118. One of the major concerns raised in respect of the proposed relaxation on the timing of the export of digestate relates to the increased potential for run-off into waterways. The concerns cite both spillage during the transport of digestate and the spreading of digestate on the land during the winter months.
119. The application site and its surroundings are located within a nitrate vulnerable zone (NVZ). NVZs are areas designated as being at risk of agricultural nitrate pollution. Where land is located within a NVZ, landowners are required to have regard to relevant legislation (the Nitrate Pollution Prevention (Amendment) Regulations 2016) and follow detailed guidance in respect of the use and storage of nitrogen fertilisers, including anaerobic digestate. These matters fall under the regulation of the Environment Agency.
120. From the information provided in the Digestate Management Strategy, it is understood that the proposed year-round export of digestate from the site is to enable it to be stored appropriately at the destination farm until such time as it is necessary to make use of it. Variations of crop, land condition and climatic conditions can mean that the appropriate time for spreading can vary significantly, often with a very small window of opportunity. There is no indication that the digestate would be intended for immediate use. Furthermore, the digestate would be transported from site in sealed vacuum tankers, either via HGV or tractor and tanker, ensuring no liquid can escape. All aspects of operations at the Sutton Lodge Farm AD site, including the export of digestate materials, would be regulated by the Environment Agency under an Environmental Permit.
121. Paragraph 201 of the NPPF states that the focus of planning 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.
122. In light of the above, it is considered that the proposed amendments to conditions 18 and 29 of planning permission would not result in an increased likelihood of pollution to surface waters as a result of run-off. The facility is subject to appropriate controls, in this instance regulated by the Environment Agency, which serve to minimise such impacts occurring. It is therefore considered that the proposal would accord with the requirements of LMWLP policy DM2, HLP policy GD8 and the NPPF in this regard.

Biodiversity Net Gain

123. Mandatory biodiversity net gain (BNG), where developers must deliver a BNG of 10% as required by Schedule 7A of the Town and Country Planning Act 1990 (as amended by the Environment Act 2021) was legally introduced on the 12 February 2024. BNG is mandatory for all applications except where exemptions apply. Applications made under section 73 are considered exempt from BNG, where either the application for the original permission was made or the original permission was granted before 12 February 2024. As such, there is no legal requirement to provide a BNG assessment or documents in respect of this proposal.

Public Rights of Way

124. Policy DM10 of the LMWLP seeks to protect public rights of way from unavoidable disruption. Where this is unavoidable, the policy includes requirements for diverted or alternative routes during the operational phase and following restoration. It also seeks, wherever possible, to secure appropriate, improved access into the countryside. Paragraph 105 of the NPPF seeks to protect and enhance public rights of way and access.
125. Public bridleway W59 runs close to the application site. However, in consideration of the type and nature of the proposed revised layout or the other proposed amendments to conditions, it is unlikely that users of the public bridleway would experience impacts or disruption over and above those which were previously assessed and found to be acceptable. The development would therefore accord with the requirements of policy DM10 of the LMWLP, policy GD8 of the HLP and paragraph 105 of the NPPF.

Sustainability of the Proposed Development

126. When considering proposals for waste development, the Waste Planning Authority takes a positive approach which reflects the presumption in favour of sustainable development contained within the NPPF. Proposals should contribute to the three aspects (economic, environmental and social) of sustainable development. In this instance, the proposal would allow the export of digestate (by road) 12 months of the year to provide greater flexibility for the applicant as well as the farmers who will be spreading digestate on their land. It would also enable the facility to be constructed and taken into use prior to the construction of the digestate pipeline, providing the applicant with greater flexibility and certainty regarding the viability of this aspect of the development. The proposal is considered to accord with the NPPF in supporting economic growth, however, this must be balanced against the environmental and social objectives of sustainable development.
127. Having regard to the assessment undertaken above, the application, if granted planning permission, would not result in unacceptable adverse impacts to the local environment or local amenity. The proposed revisions to the layout and/or scale of the plant would not result in significant landscape or visual impacts and has the potential to bring some benefit through the reduction in height of a number of the largest structures. The proposed removal of the restriction on digestate export during the months of October to February would not result in an increase in vehicle movements over and above those which are already

permitted and may reduce the potential for seasonal 'peaks' in traffic flow to and from the site. Impacts associated with pollution to surface waters would also be controlled. No objections were received from the Environment Agency, or the Local Highway Authority in respect of the proposed amendments.

128. Therefore, overall, the proposal is found to accord with policies DM1 of the LMWLP, GD8 of the HLP and the principles of sustainable development as set out in Paragraph 11 of the NPPF.

Other Matters

Planning Conditions

129. Planning permission 2009/1488/03 was subject to a condition (no. 1) which required that the development was commenced within three years of the date of the planning permission. As set out the development was implemented within that timeframe. This situation was reflected in planning permission 2013/1536/03 which saw the removal of condition no. 1. However, section 91 of the Town and Country Planning Act 1990 requires that all planning permissions include a condition relating to the commencement of the development. In this instance, it is proposed that a new condition no. 1 is added which sets out that, for the purposes of any new planning permission, the development will be considered to have commenced on the date that any new permission is granted. This would ensure compliance with the 1990 Act but would result in a renumbering of all conditions, including those which the applicant seeks to amend under the current proposal.

Need for new application/Use of Section 73

130. Consultation responses and the public representation received object to the proposal on the basis that the proposed amendments would introduce significant changes to the previously approved scheme and that it would be more appropriate to submit a new full planning application. Such comments were made both in the context of the four conditions which the applicant seeks to amend as well as wider changes to the operation of the facility which are discussed in the application e.g. changes to mix of feedstock and the proposed delay in implementing the digestate pipeline.
131. PPG (paragraph 013, ref 17a-013-20230726, accessed 19 May 2025) provides guidance on what is permitted under section 73 applications. It states that an application made under section 73 of the Town and Country Planning Act 1990 'can be used to make a material amendment by varying or removing conditions associated with a planning permission. There is no statutory limit on the degree of change permissible to conditions under s73, but the change must only relate to conditions and not to the operative part of the permission'. Paragraph 014 states that section 73 cannot be used to change the description of the development. The operative part of the permission is a term taken to refer to the description of the development.
132. In this instance, the original application was for an AD facility with associated infrastructure and landscaping. The nature and description of the development e.g. 'the operative part' would not change as a result of the proposed amendments to conditions. Furthermore, no changes are proposed in terms

overall annual throughput, volume of digestate produced per year, hours of operation or number of vehicle movements and, for all intents and purposes, the facility would be operating at the same rate with the same capacity.

Contribution that AD technology makes to mitigating and adapting for climate change.

133. The representation commented that the contribution that an AD plant can make towards mitigating the effects of climate change is so small as to be barely measurable. Paragraph 161 of the NPPF states that the planning system should support the transition to net zero by 2050 and take full account of all climate change impacts including overheating, water scarcity and flood risks. The planning system should also support renewable and low carbon energy and associated infrastructure. Paragraph 168 of the NPPF states that when determining applications for all forms of renewable and low carbon energy developments, planning authorities should a) not require applicants to demonstrate the overall need for renewable or low carbon energy, and give significant weight to the its benefits and the proposal's contribution to a net zero future and b) recognise that small -scale projects provide a valuable contribution to cutting greenhouse gas emissions.
134. PPG (Reference ID: 5-001-20140306, accessed 28 May 2025) provides guidance on assessing applications for renewable and low carbon energy. It indicates that increasing the amount of energy from renewable and low carbon technologies will help ensure the UK has a secure energy supply, reduce greenhouse gas emissions to slow down climate change, and stimulate investment in new jobs and businesses. It further states that planning has an important role in the delivery of new renewable and low carbon energy infrastructure in locations where the local environmental impact is acceptable
135. The concerns regarding the contribution that the facility could make to an overall reduction in greenhouse gas emissions are noted. However, in line with the NPPF and PPG, it is considered that whilst the contribution that the Sutton Lodge Farm AD facility would have would be minimal, benefit would still arise from its operation as it would assist in ensuring that the UK has a secure energy supply, thereby reducing the UK's need to rely on fossil fuels. It is further noted that the 2010 and 2014 both include conditions relating to measures to minimise water consumption and to mitigate the effects of flood risk. It is not proposed that such measures would change as a result of the current proposal. With that in mind, it is considered that the proposal would accord with the requirements of the NPPF in respect of delivering renewable and low carbon energy.

Approval of the connection to national gas infrastructure

136. The representation received expresses concern regarding the mechanism for approval of the pipeline connecting the AD facility to the closest national gas infrastructure, stating that prior notification is not an appropriate mechanism for approval. The applicant has confirmed that Cadent Gas would be responsible for installing the connection from the AD facility to its national gas infrastructure and has provided the Waste Planning Authority with copies of the connection offer. Cadent Gas would be acting in its role as gas transporter, and deemed consent for this connection is granted by Part 15, Class A of

Schedule 2 of the Town and Country Planning (General Permitted Development) (England) (Order) 2015 subject to a prior notification. Because this part of the proposal does not relate to a county matter, it is likely that any prior notification would be sent to the relevant local planning authority, which in this instance is Harborough District Council.

The Principle of AD as a technology

137. The comments regarding the principle of AD as a technology, the political thinking behind it, and the impact that the production of agricultural crops specifically as a feedstock for AD rather than for food production are noted. However, these are issues which relate to the principle of an AD plant in this location or introduce matters which are not relevant to this application. The environmental acceptability of an AD plant in this location was assessed, and found to be acceptable, by the Council's Development Control and Regulatory Board (DCRB) during the determination of planning permission 2009/1488/03. These comments were further raised during the determination of planning permission 2013/1538/03. It is not considered necessary to reconsider them here.

Applicant name/company

138. Matters relating to the name and nature of the applicant company are not a material planning consideration.

Conclusion

139. In conclusion and having assessed the main issues and potential impacts of the proposal, it is not considered that the amendments to conditions 1, 18, 26 and 29 or the proposed insertion of an additional condition, would result in unacceptable impacts to the environment or local amenity.
140. Allowing the export of digestate from the AD facility year-round (through the amended wording to condition 18) would provide both the applicant and the destination farms greater flexibility in terms of supply and access to the digestate as a spreading medium. Likewise, allowing the applicant to commence operations at the site without requiring the submission of detailed information regarding the use of the pipeline would also bring economic benefit, allowing the facility to meet market demand. In both instances the proposed amendments would accord with the economic strand of sustainable development as set out in the NPPF. With regard to the proposed amendment to condition 29, whilst this is considered acceptable in principle, the operation, routing and use of the pipeline is development which requires planning permission in its own right and therefore cannot be controlled via condition. It is therefore recommended that condition 29 be deleted from any new planning permission.
141. The proposed amendments to the layout and scale of the structures at the site are required to enable the facility to accord with the requirements of the Environmental Permitting regime. This need to make the proposed amendments is accepted in the determination of this application. The proposed revised layout would also necessitate changes to a previously approved lighting scheme for the site, which was dependent on the original site layout.

The relevant condition has also been updated to require the submission of updated information in this respect.

142. The submission of the revised acoustic survey and the proposed revisions to condition 26 to take into account increased background noise levels at the site is considered reasonable and would not result in a significant increase in noise impacts associated with the operation of the facility, it is further noted that, in light of the updated acoustic information, the refusal to amend the wording of condition 26 would result in a condition which was no longer reasonable or enforceable.
143. Potential impacts relating to landscape and visual impacts and impacts to highway safety and the public right of way network have been assessed and are not considered to give rise to impacts over and above those previously assessed. It is also considered that potential impacts associated with the proposal would be minimal, negligible and suitably controlled by the other, existing, conditions of the planning permission.
144. Concerns raised by the local community and issues raised by consultees have been taken into account and have been addressed in the determination of the application.
145. Changes have also been made to the conditions of the planning permission to enable it to meet the requirements of the Town and Country Planning Act 1990 in respect of the need to include a condition relating to commencement of development. This has resulted in a general renumbering of conditions as set out in Appendix A below.
146. In light of the above, it is considered that the proposal accords with the relevant policies contained within the adopted Leicestershire Minerals and Waste Local Plan 2019-2031; the adopted Harborough Local Plan; the Broughton Astley Neighbourhood Plan and the requirements of the National Planning Policy Framework (December 2024) and is recommended for approval subject to conditions.

Statement of Positive and Proactive Engagement

147. In determining this application, the Waste Planning Authority has worked positively and proactively with the applicant by entering into pre-application discussions; scoping of the application; assessing the proposals against relevant Development Plan policies; the National Planning Policy Framework, including the accompanying technical guidance. The Waste Planning Authority has identified all material considerations; forwarding consultation responses received in a timely manner; considering all valid representations received; liaising with consultees to resolve issues and progressing towards a timely determination of the application. Issues of concern have been raised with the applicant, such as impacts of noise and traffic and have been addressed through negotiation and acceptable amendments to the proposals. The applicant has been given advance sight of the draft planning conditions. This approach has been in accordance with the requirement set out in the National Planning Policy Framework.

Recommendation

148. PERMIT subject to the conditions set out in Appendix A.

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