

**PLANNING AND REGULATORY COMMITTEE
25 SEPTEMBER 2018****APPLICATION TO VARY CONDITIONS 2 (APPROVED DRAWINGS), 14 (CONTROL OF NOISE), 18 (CONTROL OF ODOUR), 29 (CONTROL OF EXTERNAL OPERATIONS) AND 32 (CLOSING OF DOORS) OF PLANNING PERMISSION REFERENCE NUMBER 14/000050/CM, DATED 26 MARCH 2015 TO FACILITATE AMENDMENTS TO THE ENVIROSORT FACILITY AND ITS OPERATION (PART-RETROSPECTIVE) AT ENVIROSORT, OFF WOODBURY LANE, NORTON, WORCESTERSHIRE**

Applicant

Mercia Waste Management Limited

Local Member

Mr R C Adams

Purpose of Report

1. To consider a County Matter planning application under Section 73 of the Town and Country Planning Act 1990 (as amended) to vary conditions 2 (approved drawings), 14 (control of noise), 18 (control of odour), 29 (control of external operations) and 32 (closing of doors) of planning permission reference number 14/000050/CM, dated 26 March 2015 to facilitate amendments to the EnviroSort facility and its operation (Part-Retrospective) at EnviroSort, off Woodbury Lane, Norton, Worcestershire.

Background

2. Mercia Waste Management Limited was awarded a 25 year waste management contract (the Joint Authorities' Private Finance Initiative (PFI) contract for the management of municipal waste) with Worcestershire County Council and Herefordshire Council in December 1998. The contract is for the provision, management and operation of a range of new and enhanced facilities within the joint authority area.

3. Members may be aware that in June 2007, Members of the Planning and Regulatory Committee granted planning permission for the EnviroSort facility, which comprised the *"construction and operation of a combined reclamation facility including weighbridge, offices, welfare facilities, staff and visitor parking, ancillary infrastructure and landscaping on land at Area 7 Industrial Park, Norton, near Worcester"* (Ref: 407669, Minute No. 541 refers). Planning permission was subsequently granted on

16 July 2007. The Environmental Permit for the facility (Ref: ERP/DP3696SF) was issued by the Environment Agency in October 2009.

4. In March 2015 Members of the Planning and Regulatory Committee granted planning permission for an "*application to vary conditions 8, 35 and 36 of planning permission 407669 to incorporate amendments to the internal process plant alongside changes to the operating and maintenance hours at EnviroSort facility*" (Ref: 14/000050/CM, Minute No. 902 refers). In summary these amendments comprised:

- **Condition 8** – amending waste deliveries to allow District Council split bodied waste collection vehicles to access the site to off-load recyclables whilst still carrying household waste;
- **Condition 35** – extending the operational hours by 1 hour (22:00 to 23:00 hours) Mondays to Fridays, inclusive and by 4 hours (13:00 to 17:00) on Saturdays; and
- **Condition 36** – extending the maintenance hours to allow activities to take place (within the building only) at any time during the week.

5. It should be noted that a planning permission granted under Section 73 of the Town and Country Planning Act 1990 (as amended) creates a new standalone planning permission, leaving the original consent un-amended and intact. Accordingly, EnviroSort now operates under planning permission Ref: 14/000050/CM.

The Proposal

6. Mercia Waste Management Limited is seeking planning permission for the variation of conditions 2 (approved drawings), 14 (control of noise), 18 (control of odour), 29 (control of external operations) and 32 (closing of doors) of planning permission reference number 14/000050/CM, dated 26 March 2015 to facilitate amendments to the EnviroSort facility and its operation (Part-Retrospective) at EnviroSort, off Woodbury Lane, Norton, Worcestershire.

7. The EnviroSort facility is a Materials Recycling Facility (MRF) for the management of comingled recyclables collected within Worcestershire and Herefordshire under the authorities' joint municipal waste management contract. The EnviroSort facility processes up to 105,000 tonnes per annum of dry recyclable materials including paper, light card, plastic containers, steel and aluminium cans and glass bottles and jars collected from households in Herefordshire and Worcestershire. The materials are brought into the wholly enclosed building, with all unloading, sorting and packing activities taking place within the building itself. The process lines sort the various recyclable materials and pack them for dispatch and re-use elsewhere.

8. This application seeks to vary several conditions attached to the planning permission for the EnviroSort Facility (Ref: 14/000050/CM). In summary the amendments comprise:-

- Operating the MRF with 3 of the doors on the south-west façade open to enable the loading of separated recyclables (for export) onto large HGVs, particularly those with walking floor trailers

- The ability to operate the MRF with 2 other doors open to facilitate the delivery / unloading of comingled recyclables from HGVs when the reception hall is nearly full
- The installation of 3 pairs of new ventilation louvres on the rear (north-east) façade of the MRF building
- Permitting sheeted metal containers with glass and rejects to be stored outside of the MRF building temporarily, awaiting collection on either the same or next weekday working day. The storage area is proposed between the MRF building and weighbridge
- In the same storage area as above, permitting baled plastics and metals, up to 2 bales high, to be stored for up to 25 days in any one calendar year
- Permitting the storage of empty metal containers and damaged wheelie bins in an area to the rear (south-east) façade of the MRF building. The storage of sheeted metal containers holding processed glass and MRF rejects in the same area, to be stored temporarily, awaiting collection on either the same or next weekday working day, and
- Regularising some other minor changes to the EnviroSort facility, where the development as built does not mirror the scheme illustrated on the original approved planning application drawings. This includes the installation of an extra door for pedestrians on the south-east, south-west and north-west elevations of the MRF building.

9. The applicant states that a number of the above operations are already taking place at the facility and some of the physical amendments are already in place. Hence, the planning application is in part, retrospective.

10. This planning application seeks to vary the following planning conditions:-

- **Condition 2** – to enable the approved drawings ref: K628-L 101 (C) General Arrangement Plan; and 9685(P)3D Elevations to be amended to illustrate the proposed changes;
- **Condition 14** – to enable the EnviroSort facility as amended to operate in accordance with the submitted updated Noise Assessment Report, submitted in support of this planning application;
- **Condition 18** – to enable the EnviroSort facility as amended to operate in accordance with the submitted updated Odour Management Plan;
- **Condition 29** – to permit the handling, storage and transfer of waste to take place outside the confines of the building; and
- **Condition 32** – to allow certain doors to the MRF building to remain open to accommodate large HGVs.

11. The applicant states that the amendments are required because whilst the EnviroSort facility building is relatively large, it has limited internal space for the storage of processed materials and vehicle loading, with the internal space being primarily occupied by the MRF sorting equipment. The applicant goes on to state that *"the limited internal building capacity gives rise to the following operational issues:-*

- There is only sufficient capacity within the building for single containers for the storage of processed glass and MRF rejects (i.e. two containers for each). Both glass and MRF rejects are conveyed off the MRF equipment directly into the containers. Once these containers are full, they need to be immediately replaced with a new empty container. The issue then arises that there is insufficient space within the building to store the full container, pending it being picked up and removed from site. Hence, these containers are sheeted and placed outside of the building awaiting collection on either the same, or the next working (weekday) day. This procedure has been taking place at the site for several years, but is technically in breach of the planning permission. It is also noted that doors 3 and 4 (the doors in the centre of the south-west façade) need to be opened when the full containers are moved outside. It is questionable whether this in itself is a planning breach. Nevertheless, for completeness it is included within this application.*
- The second loading issue is that when baled separated recyclables are exported from inside of the EnviroSort facility building, HGVs with rear loaded walking floor trailers, cannot pull fully inside the building such that the doors 1, 2 and 5 cannot be shut. Hence, the MRF doors need to remain open for the duration of bale loading. The applicant has confirmed that this procedure has been taking place for a number of years, but is technically in breach of the planning permission.*
- Whilst practically all incoming comingled recyclables are unloaded from vehicles fully contained within the EnviroSort building, with the doors shut, there are rare occasions when the reception hall is nearly full, that HGVs cannot unload with the doors shut. As with the previous issue, there is simply insufficient space for such a vehicle to pull full inside of the building. Hence, the application seeks the ability to operate the MRF with 2 other doors (doors 6 and 7) to be left open to facilitate the delivery / unloading of comingled recyclables from 18 metre long bulker HGVs when the reception hall is nearly full. The applicant has confirmed that this is retrospective.*
- The fourth issue relates to the storage of baled recyclables (plastics and metals) during and immediately following Bank and Public Holiday periods; and other exceptional circumstances when the reproprocessors cannot collect the bales. During such periods there is insufficient space to safely store the bales within the building. Accordingly, this application seeks approval to externally store baled plastics and metals, up to 2 bales high, for up to 25 days in any one calendar year. The storage location is the same as that proposed for the glass and MRF rejects containers.*
- The fifth amendment relates to improving the ventilation of the MRF building, which gets excessively warm during certain periods of the year. The proposal is for the installation of 3 pairs of new ventilation louvres on the rear (north-east) façade of the MRF building.*

- *The sixth change is to permit the storage of empty metal containers, metal containers holding processed glass and MRF rejects, and damaged wheelie bins in an area to the rear (south-east) façade of the MRF building. Damaged wheelie bins were never intended to be handled at the EnviroSort site. However, during the collection of recyclables (by the various Waste Collection Authorities), on occasion the process of tipping the wheelie bins into the rear of the Refuse Collection Vehicle (RCV), results in the bin itself falling into the back of the collection vehicle. The bin then passes through the RCV compactor into the body of the RCV and is 'delivered' to the EnviroSort with the collected recyclables. Mercia Waste Management recovers the damaged bins from the waste reception area within the MRF building and stores them to the rear of the building until there is sufficient quantity for the bins to be collected for reprocessing. The applicant has confirmed that this is retrospective.*
- *The final issue relates to regularising some other minor changes to the EnviroSort, where the development as built does not mirror the scheme illustrated on the original approved planning application drawings". The amendments comprise:-*
 - The vehicle wash and fuel tank being located within a different position within the MRF yard; and
 - Minor amendments to the number and position of doors.

The Site

12. The application site is located on the established industrial estate of Crucible Business Park. The facility lies approximately 5 kilometres south-east of Worcester city centre, about 1.2 kilometres east of Norton Village and about 1.6 kilometres south-east of junction 7 of the M5 Motorway. Access to the facility is from Woodbury Lane (C2055), which connects to the B4084.

13. Woodbury Lane forms the northern and western site boundaries, beyond which is a belt of mature trees and open fields. A distribution centre / warehouse is located immediately to the north-east, beyond which are the B4084 and open fields beyond. The Birmingham to Bristol railway line is located immediately to the south and east, beyond which is the site of Worcestershire Parkway Railway Station (Ref: 15/000007/REG3, Minute No. 916 refers), which is currently under construction. Further distribution centres/warehouses are located to the south-west of the facility, beyond which are open fields.

14. The Cooksholme Meadows Site of Special Scientific Interest (SSSI) is located approximately 375 metres south of the site. There are also a number of non-statutory wildlife designated sites within 2 kilometres of the proposal, notably the Botany Bay Meadow Local Wildlife Site (LWS) and Spetchley Deer Park & Plantation Meadows LWS are situated approximately 1 kilometre and 1.3 kilometres north-east of the application site, respectively. Norton Brickpits LWS located about 1.4 kilometres west of the application site. Crookbarrow Hill LWS is situated approximately 1.8 kilometres north-west of the proposal. Kempsey & Stonehall Commons LWS is situated about 1.9 kilometres south-west of the site.

15. The general area surrounding the site is semi-rural in nature. The nearest Public Right of Way is that of Footpath NJ-518, located approximately 90 metres north-west of the facility, running along Woodbury Park. A further Public Right of Way (Footpath NJ-523) is located about 185 metres west of the facility, forming the boundary of the Crucible Business Park. Beyond the railway line are a number of Public Rights of Ways (Footpaths NJ-524, NJ-545, NJ-548).

16. The nearest residential property to the proposal is that of the Follies which lies about 80 metres from the eastern corner of the site. There is a cluster of residential properties and a nursing home opposite the site. The nearest of these properties to the site is Merryfield House, Woodbury Park which is about 85 metres from the north-west corner of the site. Richmond House and Capullo, next to Merryfield House lie about 110 metres and about 130 metres respectively from the site. Norton Hall Nursing Home also on Woodbury Park is approximately 160 metres to the north-west of the site. 'Sanghoi' is located approximately 150 metres to the north-east of the site, on the opposite side of the road from the junction of Woodbury Lane with the B4084. Approximately 200 metres further to the south-west of the site is a small cluster of residential properties and farm buildings associated with Norton Fields Farm. Norton College, a specialist secondary day school for pupils between 11 and 19 years old is situated about 70 metres south-west of the site. Norton Juxta Kempsey CE First School is located about 1.1 kilometres south-west of the application site.

Summary of Issues

17. The main issues in the determination of this application are:

- External Storage
- Residential Amenity (Pests, Noise, Dust, Odour and Health Impacts)
- Landscape Character and Visual Impacts
- Traffic and Highways Safety.

Planning Policy

National Planning Policy Framework (NPPF)

18. The revised National Planning Policy Framework (NPPF) was published on 24 July 2018 and sets out the government's planning policies for England and how these are expected to be applied. The revised NPPF is a material consideration in planning decisions and should be read as a whole (including its footnotes and annexes). The revised NPPF replaces the previous NPPF published in March 2012.

19. The NPPF should be read in conjunction with the Government's planning policy for waste (National Planning Policy for Waste). Annex 1 of the NPPF states that *"the policies in this Framework are material considerations which should be taken into account in dealing with applications from the day of its publication"*.

20. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. Achieving sustainable development means that the planning system has three overarching objectives (economic, social and environmental), which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

- **an economic objective** – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
- **a social objective** – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and
- **an environmental objective** – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

21. These objectives should be delivered through the preparation and implementation of plans and the application of the policies in the NPPF; they are not criteria against which every decision can or should be judged. Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.

22. So that sustainable development is pursued in a positive way, at the heart of the NPPF is a presumption in favour of sustainable development. For decision-taking this means:

- approving development proposals that accord with an up-to-date development plan without delay; or
- where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

23. The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from

an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

24. The following guidance contained in the NPPF, is considered to be of specific relevance to the determination of this planning application:

- Section 2: Achieving sustainable development
- Section 4: Decision-making
- Section 6: Building a strong, competitive economy
- Section 8: Promoting healthy and safe communities
- Section 9: Promoting sustainable transport
- Section 12: Achieving well-designed places
- Section 14: Meeting the challenge of climate change, flooding and coastal change
- Section 15: Conserving and enhancing the natural environment

National Planning Policy for Waste

25. The National Planning Policy for Waste was published on 16 October 2014 and replaces "Planning Policy Statement 10 (PPS 10): Planning for Sustainable Waste Management" as the national planning policy for waste in England. The document sets out detailed waste planning policies, and should be read in conjunction with the NPPF, the Waste Management Plan for England and National Policy Statements for Waste Water and Hazardous Waste, or any successor documents. All local planning authorities should have regard to its policies when discharging their responsibilities to the extent that they are appropriate to waste management.

The Development Plan

26. The Development Plan is the strategic framework that guides land use planning for the area. In this respect the current Development Plan that is relevant to this proposal consists of the Adopted Worcestershire Waste Core Strategy Development Plan Document and the Adopted South Worcestershire Development Plan.

27. Planning applications should be determined in accordance with the provisions of the Development Plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.

28. With regard to the weight to be given to existing policies adopted prior to the publication of the revised NPPF, Annex 1 states "*existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*".

Worcestershire Waste Core Strategy Development Plan Document (WCS)

Policy WCS 1: Presumption in favour of sustainable development
Policy WCS 2: Enabling Waste Management Capacity
Policy WCS 3: Re-use and Recycling
Policy WCS 6: Compatible land uses
Policy WCS 8: Site infrastructure and access
Policy WCS 9: Environmental assets
Policy WCS 10: Flood risk and water resources
Policy WCS 11: Sustainable design and operation of facilities

Policy WCS 12: Local characteristics
Policy WCS 14: Amenity
Policy WCS 15: Social and economic benefits

South Worcestershire Development Plan

29. The South Worcestershire Development Plan (SWDP) covers the administrative areas of Worcester City Council, Wychavon District Council and Malvern Hills District Council. The SWDP policies that are of relevance to the proposal are set out below:-

Policy SWDP 1 Overarching Sustainable Development Principles
Policy SWDP 2 Development Strategy and Settlement Hierarchy
Policy SWDP 4 Moving Around South Worcestershire
Policy SWDP 8 Providing the Right Land and Buildings for Jobs
Policy SWDP 12 Employment in Rural Areas
Policy SWDP 21 Design
Policy SWDP 22 Biodiversity and Geodiversity
Policy SWDP 25 Landscape Character
Policy SWDP 28 Management of Flood Risk
Policy SWDP 29 Sustainable Drainage Systems
Policy SWDP 30 Water Resources, Efficiency and Treatment
Policy SWDP 31 Pollution and Land Instability

Other Documents

Waste Management Plan for England (2013)

30. The Government through Defra published the Waste Management Plan for England in December 2013. This Plan superseded the previous waste management plan for England, which was set out in the Waste Strategy for England 2007.

31. There are comprehensive waste management policies in the England, which taken together deliver the objectives of the revised Waste Framework Directive, therefore, it is not the intention of the Plan to introduce new policies or to change the landscape of how waste is managed in England. Its core aim is to bring current waste management policies under the umbrella of one national plan.

32. This Plan is a high level document which is non-site specific, and is a waste management, rather than a waste planning document. It provides an analysis of the current waste management situation in England, and evaluates how it will support implementation of the objectives and provisions of the revised Waste Framework Directive.

33. The key aim of this Plan is to work towards a zero waste economy as part of the transition to a sustainable economy. In particular, this means using the “waste hierarchy” (waste prevention, re-use, recycling, recovery and finally disposal as a last option) as a guide to sustainable waste management.

The Government Review of Waste Policy England 2011

34. The Government Review of Waste Policy in England 2011 seeks to move towards a green, zero waste economy, where waste is driven up the waste hierarchy. The waste hierarchy gives top priority to waste prevention, followed by preparing for re-

use, recycling, other types of recovery (including energy recovery) and last of all disposal.

35. In relation to infrastructure and planning paragraph 26 states that the Government continues to support local authorities in the provision of necessary waste infrastructure. Paragraph 256 identifies that the Government's ambitions for waste highlight the importance of putting in place the right waste management infrastructure at the right time and in the right location. The Government's ambition is to have appropriate waste reprocessing and treatment infrastructure constructed and operated effectively at all levels of the waste hierarchy to enable the most efficient treatment of our waste and resources.

The Joint Municipal Waste Management Strategy for Herefordshire and Worcestershire 2004 – 2034 (First Review August 2011)

36. The purpose of the Joint Municipal Waste Management Strategy for the two counties 2004 – 2034 (First Review August 2011) (JMWMS) is to clarify key issues, give clear direction on waste management in Herefordshire and Worcestershire and set out and co-ordinate general principles, policies and targets across all authorities in Herefordshire and Worcestershire. The aim of the JMWMS is to decrease waste production and increase the recovery value from waste (to re-use it, recycle it, compost it, or recover in other ways) by treating waste as a resource. The waste management policies that are considered to be of relevance to the determination of this planning application are:-

- **Policy 1** regarding Waste Hierarchy
- **Policy 2** regarding Waste Management in Herefordshire and Worcestershire providing good value for money
- **Policy 3** regarding seeking to balance the longer term need to reduce the amount of waste generated and disposed of with the range and type of services necessary to meet customer needs
- **Policy 4** regarding waste targets
- **Policy 7** regarding minimising greenhouse gas emissions
- **Policy 13** regarding targets for recycling, composting and recovery
- **Policy 16** regarding promoting sustainable waste management
- **Policy 23** regarding reducing waste miles

Consultations

37. **Norton Juxta Kempsey Parish Council** objects to the proposal on the grounds of noise, odour and potential infestation affecting the amenity of local residents. The Parish Council state that the original planning application was granted on the basis that all operations would take place within the building with the doors closed in order to eliminate noise, odour and potential infestation, thereby not affecting the amenity of local residents. These conditions and restrictions were hard fought for, and hard won, to protect local residents from the effects of what was seen as an unsuitable development. The applicant undertook to hold regular community group liaison meetings and to sweep the road outside the facility twice daily should spillage occur. All of this would enable them to operate in harmony with local residents and up to capacity, which was predicted to be comfortably beyond 2020.

38. The Parish Council are, therefore, disappointed that the applicant now wishes to change what was approved. They note the applicant states that a number of the amendments sought have been taking place for some years without complaint. If this is the case, then enforcement action should be taken.

39. They state the frequency of the community liaison group meetings have waned and trust disintegrated because of the lack of consultation regarding the new application. Finally, the Parish Council comment that the road is no longer swept as often, and frequently contains broken glass and litter.

40. **Whittington Parish Council (Neighbouring Parish Council)** has made no comments.

41. **Stoulton Parish Council (Neighbouring Parish Council)** has no objections to the proposal.

42. **Drakes Broughton Parish Council (Neighbouring Parish Council)** has made no comments.

43. **Wychavon District Council** has no objections to the proposal, but states that part of the site is identified as being at high risk of surface water flooding and recommend that the Environment Agency are consulted on the proposal and Policy SWDP 28 of the South Worcestershire Development Plan is taken into account.

44. **The Environment Agency** wishes to make no comments on the application, but confirmed that the environmental permit for the site controls emissions including odour, noise and vibration impacts.

45. **Worcestershire Regulatory Services (Noise, Dust and Odour Officer)** has no objections in relation to noise, dust or odour impacts. Worcestershire Regulatory Services state that the submitted Noise Assessment appears satisfactory in terms of the methodology used and the conclusions reached, which predicts that noise from the facility with doors occasionally open should not adversely impact upon nearby sensitive receptors. The noise mitigation measures recommended relating to the proposed ventilation openings should be implemented.

46. With regard to odour impacts, Worcestershire Regulatory Services consider that the submitted Odour Management Plan is acceptable.

47. Worcestershire Regulatory Services also comment that they have reviewed their nuisance database and there do not appear to be any recent complaints relating to the site, the last complaint being received in 2010 alleging nuisance from containers being dropped and screeching tyres. This was resolved without the need for formal enforcement action being taken by Worcestershire Regulatory Services.

48. **Public Health England** have no objections to the proposal, stating that they have no significant concerns regarding risk to health of the local population from this proposed activity, providing that the applicant takes all appropriate measures to prevent or control pollution, in accordance with the relevant sector technical guidance or industry best practice. They recommend that should planning permission be granted, conditions should be imposed to control noise, dust and odour emissions.

49. **South Worcestershire Land Drainage Partnership** has made no comments.

50. **Lead Local Flood Authority** has no objections to the proposal and has no records of historic flooding at the site.

51. **The County Highways Officer** has no objection stating that the proposed variation of conditions would not have any impact on the highway.

52. **The Campaign to Protect Rural England (CPRE)** objects to the proposal on the grounds that the facility is being used beyond its design capacity, which is resulting in the building overflowing. CPRE consider the County Council would be failing in its duty to protect local residents, members of the public, visitors to Worcester Karting Centre, Coomber Business Coaching, and adjacent businesses from noise, odour, vermin and flies and risk to public health.

53. CPRE state that it is clear the applicant is struggling to comply with the conditions imposed on the extant planning permission, but this should not be an excuse for surrendering to their request to relax planning conditions. It would appear appropriate for the applicant to construct a building extension so they would have sufficient capacity to accommodate all the material on site. CPRE appreciate that this would have a financial cost, which the applicant may be unwilling to pay, but it should not be acceptable for them to operate in a manner which causes nuisance to neighbours.

54. **The County Landscape Officer** has no objections to the proposal, stating that they consider the proposed changes and activities would be contained within the existing site screening and, therefore, consider there would be no related impact to landscape character or nearby receptors.

55. **Natural England** has no objections to the proposal.

56. **Worcestershire Wildlife Trust** wishes to make no comments on this application and defers to the County Ecologist for all on site ecological considerations.

57. **The County Ecologist** has no objections to the proposal.

58. **West Mercia Police** has no objections to the proposal.

59. **Hereford and Worcester Fire and Rescue** have made no comments.

60. **Network Rail** has no objections in principle to the proposal, but due to the proximity of the development to the railway line they recommend appropriate conditions requiring no construction of drainage features within 5 metres of their boundary; ensuring drainage water is not discharged to their land; and full details of drainage plans to be submitted to Network Rail for approval.

61. **The Health and Safety Executive** have made no comments.

Other Representations

62. The application has been advertised on site, in the press and by neighbour notification. To date, 87 letters of representation objecting to the proposal have been received; this includes comments from j7 Waste Action Group, a petition with 27

signatures, and 1 letter from Nigel Huddleston MP forwarding a letter of representation from a member of the public objecting to the proposal. In addition 2 letters of representation have been received from local residents commenting on the proposal. These letters of representation are available in the Members' Support Unit. Their main comments are summarised below:

Comments

Litter

- Most of the time the facility is not a nuisance to local residents, but HGVs visiting the site deposit litter on highway. More regular litter picks / road sweeps are required by the applicant.

Noise

- Concerns regarding noise, but considers that there are now many other sites that contribute to the noise levels, and notes that these sites provide a lot of local employment.
- Previously raised concerns regarding reversing beepers at the site. If waste stored externally the adverse noise as a result of reversing beepers would increase.

Enforcement Action

- Query if there is a safeguard that should the facility breach planning conditions it is shut down immediately until rectified?

Objections

Principle of original planning permission

- The operations should be contained within an extended building.
- At time of original application the applicant stated that all waste would be contained within the building and the facility had capacity to process Worcestershire and Herefordshire's household recyclable waste up to 2023. This is the second application to vary the development. What next?
- These are not minor changes, but big amendments with big adverse effects.
- At the Community Liaison Group meeting it was stated that the applicant would not construct a building because it was not cost effective. In 2016 Mercia Waste Management made 16 % - 19.4% gross profit, so they can afford to construct a building.
- The applicant can use other trailers rather than walking floor trailers.
- This application is fundamentally different to the original permission in 2007 and would not have gained planning permission then had these operations been part of the application.
- The applicant should install air conditioning unit rather than ventilation openings.
- Applicant has not demonstrated that these amendments are necessary.
- The applicant has not provided any information to demonstrate that they cannot comply with the extant planning permission.
- No significant changes to the market that would justify the amendments sought.
- Alternatives should be considered.

Health Impacts

- Adverse impact on the health and wellbeing of local residents, particularly for Stoulton and Littleworth which are downwind of the site.

- The Council needs to consider the adverse health impact to the community, Norton Hall Nursing Home, and children at the nearby nursery and school.
- The original planning permission was granted on the basis that all doors and windows are kept closed to protect the public from noise, flies and airborne bacteria.
- By leaving doors open bacteria will be able to escape in an uncontrolled manner.
- Local residents will be exposed to diseases.
- By installation ventilation opening this will likely cause strong airflows out of the building, exhausted significant amounts of airborne bacteria causing a health risk.

Health and Safety

- Adverse health and safety impacts.
- Adverse fire risk caused from storage waste externally.

Air Pollution

- Increased air pollution.

Odour Emissions

- Increased odour emissions.
- Already existing odour issues.
- Local residents have suffered 4 years of adverse odour from a local farm (Wadborough Park Farm) and if this application is granted their will yet again be adverse odour impacts.
- Increased odour would deter users of public playground in Stoulton and indoor karting centre on Woodbury Lane.

Noise Impacts

- Adverse noise impacts for local residents and users of Worcestershire Parkway.
- Noise Assessment useless because of the temporary background noise from Worcestershire Parkway construction.
- Already been a noise nuisance caused by skips and containers stored in the yard, which was subject to numerous complaints from local residents. The applicant has failed to curtail the noise despite the complaints.

Light Impacts

- Light pollution from doors being open.

Flies and Vermin

- Increased fly and vermin infestation.
- Increase in seagulls.
- Noticed a significant increase in flies in last two years.

Amenity Impacts

- Applicant seeks to remove restrictions to the detriment of the local area.
- Adverse impact on the local environment including Worcestershire Parkway.
- Adverse impact upon the ability of residents to enjoy their homes.

Traffic and Highway Safety

- Concerns regarding the use of large vehicles being used. The junction onto Pershore Road is already a danger when HGVs pull out.
- The junction on B4084 is already very busy.

- Regularly observe lorries waiting at the gate to the facility in breach of its planning permission.

Litter

- Increase in litter along Woodbury Lane, in particular glass causing a danger to the public.
- Inadequate litter picking / road sweeping. This needs to be extended along Woodbury Lane, a slitter is blown up to the railway bridge and also along B4804.

Consultation

- The planning application submission states that councillors and officers were supportive of the proposal at the Community Liaison Group meeting on 19 June 2018. This is untrue. Parish representatives were strongly opposed to the scheme.
- The planning application submission states that "the scope of the application has been discussed and agreed with planning officers". Want to know why planning officers have agreed these changes?
- Paragraph 1.3.1 of planning application submission states that there has been no consultation with the public. This is a clear breach of Worcestershire County Council's planning principles.
- Lack of consultation by the County Council.

Breach of conditions

- Within the planning application submission the applicant appears very proud that they have been operating in breach of their planning conditions. This does not give them the right to continue the same way.
- Query why the County Planning Authority have not taken enforcement action against the breaches of planning conditions.
- Should planning permission be approved, they request the County Council enforce the planning conditions imposed should they be breached.
- Consider the condition recommended by the applicant regarding the 25 day rule is meaningless and open to abuse by the applicant.

Planning Process / Procedure

- It is important that the planning committee members are aware that they are not considering a variation to existing conditions, but they are being asked to consider putting in place new standalone conditions leaving the original consent un-amended and intact.

The Head of Strategic Infrastructure and Economy's Comments

63. As with any planning application, this application should be determined in accordance with the provisions of the Development Plan unless material considerations indicate otherwise. The relevant policies and key issues have been set out earlier.

External Storage

64. The principle of the development in this location has already been established and accords with Policy WCS 6 of Worcestershire Waste Core, however, as part of this application the applicant is now seeking retrospectively to store sheeted

containers of glass and MRF rejects to be collected the same or next weekday working day; baled recyclables (plastics and metals) for up to 25 days per calendar year; empty metal containers; and damaged wheelie bins outside the MRF building. To facilitate these changes the applicant is seeking to vary a number of conditions and this includes condition 29, which requires "*no handling, deposit, storage or transfer of waste shall take place outside the confines of the building hereby permitted*". The reasons for the condition, as given on the extant planning permission is "*in the interests of the amenity of the surrounding area in accordance within Policy WCS 14 of the adopted Worcestershire Waste Core Strategy and Policy GD2 if the adopted Wychavon District Local Plan*".

65. The applicant states that the external storage is required to facilitate the effective and safe running of the existing EnviroSort facility, which provides a critical role in helping to drive waste up the waste hierarchy by sorting and bulking up of household waste from Herefordshire and Worcestershire in preparation for transfer and subsequent recycling by specialist operators. The Head of Strategic Infrastructure and Economy considers that the limited outside storage is considered acceptable, subject to the amendments not causing any unacceptable adverse effects. As set out above, the reason for the condition was "*in the interests of amenity of the surrounding area...*". The impacts of the whole proposal, including impacts upon amenity will now be considered.

Residential Amenity (Pests, Noise, Dust, Odour and Health Impacts)

66. The main issues in the consideration of this planning application are the consideration of pests, noise, dust, odour and health impacts upon residential amenity.

67. The nearest residential property to the proposal is that of the Follies which lies about 80 metres north-east of the proposal. Merryfield House is located approximately 85 metres from the north-west corner of the application site, about 150 metres from the existing building and associated yard and is the nearest property at the hamlet of properties adjacent to Norton Hall Nursing Home. A further dwelling of Sanghoi' is located approximately 150 metres to the north-east of the application site, adjacent to the B4084.

68. Letters of representation and have been received objecting to the proposal on pests, noise, odour, health and health and safety grounds. Norton Juxta Kempsey Parish Council objects to the proposal on the grounds of noise, odour and potential infestation affecting the amenity of local residents. CPRE also objects on the grounds of noise, odour, vermin and flies and risk to public health.

69. The plant receives dry comingled recyclables from kerbside collections. There is no input of raw refuse or material that would give rise to noxious odours and attract flies or any processing of material that would give rise to gas or effluent emissions. Such materials (dry comingled recyclables) are not putrescible and typically have a low odour generation potential. However, dry recyclables can be contaminated with a degree of putrescible waste, such as food remnants. The extant planning permission imposed condition 18, which required a management plan for the control of odour. The applicant has amended the management plan in view of this planning application submission. The submitted updated odour management plan outlines a number of mitigation measures including:

- All recyclables deliveries will take place inside the building, ensuring that no unprocessed material accumulates outside and therefore removing a potential external source of odour.
- Delivered recyclables will be regularly processed to prevent the volume of material increasing substantially, from where odours could develop.
- The doors to the reception area shall be kept close other than to allow access / egress of delivery vehicles. In the event that the delivery vehicle is unable to discharge its load whilst fully inside the building (with the doors closed), unloading shall take place as rapidly as is practicable and the doors closed immediately thereafter.
- All processing and sorting of recyclables will occur inside the facility.

70. In terms of monitoring the updated odour management plan states:

- Odours will be monitored on a regular basis by appointed employees at various points around the perimeter of the facility as part of other daily inspections.
- All complaints and comments regarding odour levels from the site will be investigated as soon and thoroughly as possible, and all reasonable steps taken to rectify the situation as soon as practicable.
- A specialist odour control contractor will be called if odour levels become a cause for concern, for example if the odours were adversely affecting the surrounding environment or became so great that they had a negative impact on facility activities.

71. With regards to pests, the Head of Strategic Infrastructure and Economy notes that the extant planning permission imposed condition 17 relating to the control of flies, and recommends that should planning permission be granted the 'Management Plan for Fly Inspection and Treatment' should be updated.

72. The application was also accompanied by an updated Noise Assessment, which assessed the proposed amendments in terms of potential noise impacts, and the predicted operational noise impacts at the nearest receptors (Merryfield House, Sanghoi and the Follies). The Noise Assessment concludes that there would be no change to negligible change in residual noise levels at these residential properties, as a result of this application, subject to the three proposed ventilation openings (louvres) proposed along the north-east façade of the MRF building being fitted with an acoustic louvre, attenuator or acoustic baffle to reduce any noise break-out.

73. The Head of Strategic Infrastructure and Economy considers that localised dust can arise from the handling of paper and glass, but notes that the extant planning permission imposed condition 15 relating to the control of dust. The Head of Strategic Infrastructure and Economy has reviewed the approved Dust Management Plan and considers it still acceptable and does not need reviewing as a result of this application. Should planning permission be granted it is recommended that the extant condition relating to dust be imposed on any new planning permission.

74. Notwithstanding the above planning condition controls, the primary environmental controls over the operation of the EnviroSort facility are contained within the Environment Agency's Environmental Permit for the site. It is noted that paragraph 183 of the NPPF states that *"the focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively"*. Paragraph Reference ID: 28-050-20141016 of the Government PPG elaborates on this matter, stating that *"there exist a number of issues which are covered by other regulatory regimes and waste planning authorities should assume that these regimes will operate effectively. The focus of the planning system should be on whether the development itself is an acceptable use of the land and the impacts of those uses, rather than any control processes, health and safety issues or emissions themselves where these are subject to approval under other regimes. However, before granting planning permission they will need to be satisfied that these issues can or will be adequately addressed by taking the advice from the relevant regulatory body"*.

75. The Environment Agency has been consulted wishes to make no comments on the application, but do confirm that the Environmental Permit for the site controls emissions including odour, noise and vibration impacts.

76. Worcestershire Regulatory Services has raised no objections in relation to noise, dust or odour impacts. They consider the Noise Assessment is satisfactory, and recommend the imposition of a condition requiring the ventilation openings to be fitted with an acoustic louvre, attenuator or acoustic baffle to reduce any noise break-out. With regard to odour impacts, Worcestershire Regulatory Services consider that the submitted odour management plan is acceptable.

77. With regard to impacts to human health, Public Health England has raised no objections, stating that they have no significant concerns regarding risk to health of the local population from the proposed activity, providing that the applicant takes all appropriate measures to prevent or control pollution, in accordance with the relevant sector technical guidance or industry best practice. They recommend that should planning permission be granted, conditions should be imposed to control noise, dust and odour emissions. Conditions relating to noise, dust and odour emissions are recommended to be imposed should planning permission be granted.

78. The Head of Strategic Infrastructure and Economy notes the concerns of local residents in relation to the audible beeping alarm, but notes the applicant's confirmation that all Mercia Waste Management's vehicles are fitted with white noise alarms, in accordance with the extant planning condition 16, and that HGVs visiting the site from external reproprocessors, are advised of the reversing alarm requirements. The applicant is not aware of any specific breaches of this requirement and has not received any complaints on this matter having reviewed the complaints log for the past 3 year period.

79. Objections have also been received on the grounds of health and safety concerns. In view of this, the Health and Safety Executive has been consulted and has made no comments on the application. In terms of fire risk the applicant states that they do not believe that the externally stored bales cause any greater fire risk

than bales stored internally; and Hereford and Worcester Fire and Rescue have been consulted on the proposal and have also made no comments.

80. In view of the above matters, the Head of Strategic Infrastructure and Economy considers that the proposal would have no adverse pests, noise, dust, odour or health and safety impacts on residential amenity or that of human health, subject to the imposition of appropriate conditions.

81. Letters of representation and CPRE also consider that the building should be extended so that it is able to have sufficient capacity to accommodate all the material on site. Whilst it is considered that the proposed amendments are acceptable in terms of the impacts upon residential amenity, it is noted that the applicant states *"that any such building extension into the yard would result in there being insufficient HGV manoeuvring space to permit effective operation of the facility"*.

Landscape Character and Visual Impacts

82. The application site is located on the established industrial estate of Crucible Business Park. Woodbury Lane forms the northern and western site boundaries. A distribution centre / warehouse is located immediately to the north-east of the site. The Birmingham to Bristol railway line is located immediately to the south and east, beyond which is the site of Worcestershire Parkway Railway Station (Ref: 15/000007/REG3, Minute No. 916 refers). Further distribution centres / warehouses are located to the south-west of the facility.

83. The main elements of this application which have the potential to have an adverse impact upon landscape character and visual impacts include the installation of 3 pairs of new ventilation louvres on the north-east façade of the MRF building; storage of sheeted metal containers with glass and rejects to be stored outside of the MRF building temporarily, awaiting collection on either the same or next weekday working day; storage of baled plastics and metals, up to 2 bales high, to be stored for up to 25 days in any one calendar year; storage of empty metal containers, and damaged wheelie bins in an area to the south-east rear façade of the MRF building; and regularising the installation of an extra pedestrian door on the south-east, south-west and north-west elevations of the MRF building.

84. The County Landscape Officer has been consulted and has raised no objections to the proposal. The County Landscape Officer states that the proposed changes and activities would be contained within the existing site screening and, therefore, considers there would be no related impact to landscape character or nearby receptors.

85. The Head of Strategic Infrastructure and Economy considers that the proposed / retrospective amendments would be well screened by the existing site levels, vegetation and fencing. In particular the temporary storage of the glass and rejects sheeted containers located between the MRF building and the weighbridge, and the periodically externally stored bales would be fully screened by the existing close boarded fence, which measures approximately 2.5 metres high. It is understood the height of 2 bales stacked on top of one another is approximately 2.25 metres high. A condition is recommended to limit the height of external baled plastics and metals to a maximum of 2.5 metres high.

86. The broken wheelie bin / container storage area to the rear of the MRF building would also be well screened from Woodbury Lane due to the intervening MRF building and from the Worcestershire Parkway site by existing established boundary vegetation. In terms of the proposed louvres, these would be visible from the adjacent distribution centre / warehouse located immediately to the north-east of the site and from the Worcestershire Parkway car park, which is currently under construction. However, these louvres would be seen in the context of the existing operational MRF building and established industrial estate. Notwithstanding this, a condition is recommended requiring the detailed design of the ventilation louvres, including their dimensions and colour.

87. In view of the above matters, the Head of Strategic Infrastructure and Economy considers that the proposed development would not have an adverse or detrimental impact upon the character and appearance of the local area, subject to the imposition of appropriate conditions.

Traffic and Highway Safety

88. With regard to traffic and highway safety, the proposed amendments would not result in any additional operational HGV deliveries or collections to / from the site. Condition 7 limits the throughput of the site to 105,000 tonnes per annum and this condition is not proposed to be altered. The applicant has confirmed that the trailer lengths of the walking floor lorries are approximately the same length as trailers loaded from the side.

89. With regard to litter, letters of representation have been received objecting to the proposal stating that there have been instances of litter, particularly glass being deposited on the public highway outside the facility.

90. The applicant has confirmed that they sweep and litter pick the footpaths twice daily (once each shift) and the road channels are mechanically swept once a week. The company believes this regime is effective in ensuring that glass or other litter does not cause any material or unacceptable local problems. Furthermore, the Head of Strategic Infrastructure and Economy notes that condition 10 of the extant planning permission requires the covering of all loaded HGVs, and this is not proposed to be amended by this application and is recommended to be imposed should planning permission be granted.

91. The County Highways Officer has been consulted and has raised no objections to the proposal. In view of this, the Head of Strategic Infrastructure and Economy is satisfied that the proposal would not have an unacceptable impact upon traffic or highway safety, subject to the imposition of appropriate conditions, as imposed on the extant planning permission.

Other matters

Water Environment

92. The application site falls within Flood Zone 1 which has a low probability of flood risk. Wychavon District Council has no objections to the proposal, but states that part of the site is identified as being at high risk of surface water flooding and recommend that the Environment Agency are consulted on the proposal and Policy SWDP 28 of the South Worcestershire Development Plan is taken into account.

93. The Head of Strategic Infrastructure and Economy has reviewed the Environment Agency's indicative map of surface water flood risk and can confirm that the MRF building and its yard is identified as being at "very low risk" (the lowest risk) of surface water flooding. The Lead Local Flood Authority has raised no objections to the proposal and confirmed they have no historic records of the site flooding. South Worcestershire Land Drainage Partnership has been consulted and has made no comments and the Environment Agency wishes to make no comments on the application.

94. Based on this advice, the Head of Strategic Infrastructure and Economy considers that there would be no adverse effects on the water environment.

Ecology and Biodiversity

95. The Cooksholme Meadows SSSI is located approximately 375 metres south of the site. There are also a number of non-statutory wildlife designated sites within 2 kilometres of the proposal, including Botany Bay Meadow LWS and Spetchley Deer Park & Plantation Meadows LWS are situated approximately 1 kilometre and 1.3 kilometres north-east of the application site, respectively. Natural England and Worcestershire Wildlife Trust have been consulted due to the proximity to this SSSI and LWSs. Natural England has raised no objections to the proposal, and Worcestershire Wildlife Trust wishing to defer to the County Ecologist for all on site ecological considerations. The County Ecologist has also raised no objections to the proposal.

96. In view of the above matters, the Head of Strategic Infrastructure and Economy considers that the proposal would not have an unacceptable adverse impact on ecology and biodiversity at the site or on the surrounding area.

Integrity of the railway line

97. The Birmingham to Bristol railway line is located immediately to the south and east, beyond which is the site of Worcestershire Parkway Railway Station (Ref: 15/000007/REG3, Minute No. 916 refers), which is currently under construction.

98. Network Rail has been consulted has no objections, subject to the imposition of conditions requiring no construction of drainage features within 5 metres of their boundary; ensuring drainage water is not discharged to their land; and full details of drainage plans to be submitted to Network Rail for approval.

99. Given that the drainage scheme has already been constructed and there are no amendments proposed to the drainage regime, the Head of Strategic Infrastructure and Economy considers that the imposition of the conditions as recommended by Network Rail are not required. Furthermore, the proposed / retrospective external operations would all take place within the confines of the existing site boundaries.

100. In view of this, the Head of Strategic Infrastructure and Economy considers that there would be no adverse impact on the safe operation of the railway.

Consultation

101. Local residents have raised objections and concerns regarding the lack of pre-application consultation by the applicant and lack of consultation by the County Council. The Head of Strategic Infrastructure and Economy notes that there is no statutory requirement for applicants to undertake pre-application public consultation

on such applications. However, it is considered good practice for applicants to undertake public consultation on all application proposals at the pre-application stage. This is emphasised in the NPPF (paragraphs 39 and 40), by Policy WCS 15 of the Worcestershire Waste Core Strategy and in the County Council's Statement of Community Involvement.

102. It is noted that prior to the submission of the planning application, the applicant undertook public consultation on the proposal, discussing the application at the Community Liaison Group meeting on 19 June 2018, which is attended by two County Councillors, two County Council officers, four Parish Council representatives, two representatives from the nearby residential estate and three representatives from the applicant. The Head of Strategic Infrastructure and Economy acknowledges that the applicant undertook pre-application consultation and considers that it is ultimately a decision for the applicant on how to undertake pre-application public consultation, the extent to which it is advertised, and if and how comments received are taken into account in the preparation of their planning application.

103. The statutory requirements for consultation on planning applications by local planning authorities are outlined in the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). The statutory requirement is for a site display in at least one place on or near the land to which the application relates for not less than 21 days; or by serving the notice on any adjoining owner or occupier; and by publication of the notice in a newspaper circulating in the locality in which the land to which the application relates is situated.

104. Six Public Notices were erected on and in the vicinity of the application site; a press notice was published in the Worcester News, giving 21 days' notice and neighbour consultation letters were sent out to approximately 21 properties. Paper copies of the submitted planning application documents were also made available at the Hive and County Hall Reception. An electronic copy of the submission was also made available on Worcestershire County Council's website. In view of this, the Head of Strategic Infrastructure and Economy is satisfied that the County Planning Authority has complied with the appropriate procedures.

Enforcement

105. Letters of representation have been received querying why the County Planning Authority has not taken enforcement action against the breaches of planning control.

106. The County Planning Authority have a dedicated Planning Monitoring and Enforcement Officer who has confirmed that during his monitoring visits since 2015, he has not observed any breaches of planning control that would require formal action to resolve. Monitoring visits take place on an annual basis, however, if a complaint is received additional visits would take place to investigate and establish if a breach of planning control has taken place.

107. No complaints have been received by the County Planning Authority (in the last three years (July 2015 to July 2018) up to the point of this planning application submission), other than one complaint in July 2015, in connection with a noise issue associated with the operation of a fan, which was resolved through discussion with the operator.

108. At the request of the County Planning Authority the applicant and the County Council's Waste Management team have provided a log of all complaints for the same time period. The applicant confirmed that 1 complaint was received in July 2015 relating to noise, 3 complaints in 2016 and 2 complaints in 2017 relating to litter and glass on the public highway. At the time of the request, 15 complaints had been received in 2018, all received post the announcement of this application at the Community Liaison Group meeting. These complaints related to litter and glass deposited on the public highway; noise associated with waste containers being dropped; dip in the road on access to the EnviroSort facility; noise associated with the EnviroSort leaving doors open and noise associated with vehicle movements. The County Council's Waste Management team have confirmed they have received the same complaints.

109. The Head of Strategic Infrastructure and Economy has been informed that the Community Liaison Group has met twice (October 2015 and June 2018) in the period between July 2015 and July 2018. It is understood that a further two Community Liaison Group meetings were not held in May/June 2016 and July/August 2017 due to insufficient agenda items.

110. The Planning Monitoring and Enforcement Officer has confirmed that one matter was brought to his attention by the applicant regarding external storage during installation of new equipment within the MRF building. The officer considered if it would be in the public interest to enforce against this breach of the planning condition. Taking into account the type of material being stored, the length of time the material was to be stored and the operator volunteering the information it was considered formal action was not required on that occasion. A follow up site visit was made to ensure that the external storage had ceased by the date the applicant had indicated it would and no breach was taking place at the time of the inspection.

111. Planning enforcement action is discretionary and takes place when the breach is causing significant planning harm or when negotiations to resolve the breach, once it is identified, do not produce required results, and only if taking action is in the wider public interest.

112. It is now noted that Mercia Waste Management has made the current planning application to regularise the breaches of planning conditions. Whilst it is unfortunate that the breach of conditions have occurred, the Head of Strategic Infrastructure and Economy welcomes Mercia Waste Management seeking to resolve the breaches of planning control through the submission of the current planning application, so that the merits of the proposal can be fully examined and considered by the Planning and Regulatory Committee.

Human Rights Act 1998

113. Article 8 of the Human Rights Act 1998 (as amended) states that everyone has the right to respect for his private and family life. A public authority cannot interfere with the exercise of this right except where it is in accordance with the law and is necessary (amongst other reasons) for the protection of the rights and freedoms of others. Article 1 of Protocol 1 of the Act entitles every natural and legal person to the peaceful enjoyment of his possessions.

114. The law provides a right to deny planning permission where the reason for doing so is related to the public interest. Alternatively, having given due consideration to the

rights of others, the local planning authority can grant planning permission in accordance with adopted policies in the development plan.

115. All material planning issues raised through the consultation exercise have been considered and it is concluded that by determining this application the County Planning Authority would not detrimentally infringe the human rights of an individual or individuals.

Conclusion

116. The EnviroSort facility is a Materials Recycling Facility (MRF) for the management of comingled recyclables collected within Worcestershire and Herefordshire under the authorities' joint municipal waste management contract. It receives, sorts and despatches all the clean recyclables collected from households across the two counties, comprising cans, glass and plastic bottles, paper and light card. The facility plays a key role in delivering sustainable municipal waste management across the two counties.

117. The applicant is seeking planning permission for the variation of conditions 2 (approved drawings), 14 (control of noise), 18 (control of odour), 29 (control of external operations) and 32 (closing of doors) of planning permission reference number 14/000050/CM, dated 26 March 2015 to facilitate amendments to the EnviroSort facility and its operation (Part-Retrospective) at EnviroSort, off Woodbury Lane, Norton, Worcestershire.

118. Based on the advice of the Environment Agency, Public Health England and Worcestershire Regulatory Services, the Head of Strategic Infrastructure and Economy considers that the proposal would have no adverse pests, noise, dust, odour or health and safety impacts on residential amenity or that of human health, subject to the imposition of appropriate conditions.

119. The Head of Strategic Infrastructure and Economy considers that the proposed development would not have an adverse or detrimental impact upon the character and appearance of the local area, subject to the imposition of appropriate conditions.

120. The proposed amendments would not result in any additional operational HGV deliveries or collections to / from the site. The County Highways Officer has been consulted and has raised no objections to the proposal. In view of this, the Head of Strategic Infrastructure and Economy is satisfied that the proposal would not have an unacceptable impact upon traffic or highway safety, subject to the imposition of appropriate conditions, as imposed on the extant planning permission.

121. Taking into account the provisions of the Development Plan and in particular Policies WCS 1, WCS 2, WCS 3, WCS 6, WCS 8, WCS 9, WCS 10, WCS 11, WCS 12, WCS 14 and WCS 15 of the Adopted Worcestershire Waste Core Strategy and Policies SWDP 1, SWDP 2, SWDP 4, SWDP 8, SWDP 12, SWDP 21, SWDP 22, SWDP 25, SWDP 28, SWDP 29, SWDP 30 and SWDP 31 of the Adopted South Worcestershire Development Plan, it is considered the proposal would not cause demonstrable harm to the interests intended to be protected by these policies or highway safety.

Recommendation

122. The Head of Strategic Infrastructure and Economy recommends that planning permission be granted for the carrying-out of development pursuant to planning permission reference number 14/000050/CM, dated 26 March 2015 without complying with conditions 2 (approved drawings), 14 (control of noise), 18 (control of odour), 29 (control of external operations) and 32 (closing of doors) of that permission so as to facilitate amendments to the EnviroSort facility and its operation (Part-Retrospective) at EnviroSort, off Woodbury Lane, Norton, Worcestershire, subject to the following conditions:

- a) The development must be begun not later than the expiration of three years beginning with the date of this permission;**
- b) The development hereby approved shall be carried out and maintained in accordance with the following documents: Planning application and supporting statement dated 14 August 2006, the following drawings, except where otherwise stipulated by conditions attached to this permission:**
 - Drawing CMRF-A7-PA-MWM-001 Statutory Plan**
 - Drawing 2362-01-03 Proposed Site Layout**
 - Drawing 2362-01-02 Elevations**
 - Drawing K628-L102 (B) Office Facility Floor Plan**
 - Drawing K628-L 105 (A) Weighbridge Office**
 - Drawing CMRF-SFDA7-MWM001 Typical Process Arrangement**
 - Drawing K628-L104 (A) Typical Cross Section**
 - Drawing 425-01-01 Proposed Landscape and Ecological Enhancement Scheme**
 - Drawing C/ST96/200 Schematic Drainage Layout**
 - Drawing C/ST/90/001 Section 278 Works**
 - Drawing K628-L 108 Proposed CMRF Facility 3D Images**
 - Drawing K628-L 107 Site Sections**
 - Drawing K628-L 109 Security Fencing and Gate**
- c) The development shall be carried out and maintained in accordance with the approved Agreement pursuant to Sections 38 and 278 of the Highways Act 1980, dated 9 July 2008 between Worcestershire County Council and Mercia Waste Management Limited, Ref: LB/3637/565:10460;**
- d) The development shall be carried out and maintained in accordance with approved drawing numbered: SK08, titled: Road Detail, and drawing numbered: CMRF-MOR-MWM-002 Rev A, titled: Full Morganite Access Proposal;**
- e) Means of vehicular access to the development hereby approved shall be from the B4084 and Woodbury Lane to the east of the application site only. The approved signs enforcing this requirement instructing all traffic to turn right only, as shown on drawing C/SA/90/101 Rev H and reference 1, location 1 shown on that drawing shall be maintained for the duration of the development;**

- f) No waste other than those waste materials defined in the application shall be either deposited or processed at the site;**
- g) The operators shall ensure that the amount of waste sorted at the facility does not exceed 105,000 tonnes per annum;**
- h) Notwithstanding the provisions of Part 4 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order with or without modification):**
 - i. No fixed or mobile plant or machinery, building structures and erections, or private ways shall be erected, extended, installed or replaced within the site; and**
 - ii. No additional lights or fences shall be installed or erected at the site;**
- i) No mud, dust or debris shall be deposited on the public highway;**
- j) All loads of waste materials carried on heavy goods vehicles into and out of the building hereby permitted, shall be enclosed or covered so as to prevent spillage or loss of such material at the site or on the public highway;**
- k) There shall be no general public use of the site;**
- l) The development shall be carried out and maintained in accordance with the approved green Travel Plan, titled: Travel Plan Framework, Ref: APB/425-01-03c, dated 13 November 2007. The approved scheme shall be implemented for the duration of the co-mingled materials reclamation facility operations on this site;**
- m) All vehicles, plant and machinery operated within the site shall be maintained in accordance with the manufacturer's specification at all times, this shall include the fitting and use of effective silencers;**
- n) The development shall be carried out in accordance with the approved Noise Assessment prepared by Noise and Vibration Consultants Ltd, dated 16 July 2009, Report Ref: R08.1639/1/DRK, Compliance Noise Monitoring Scheme; and the Noise Assessment to Vary Planning Conditions on Permission Ref: 14/000050/CM (15/000041/CM) to Facilitate Amendments to the Facility and its Operation, dated 13 June 2018, Report Ref: R18.0603/DRK. The approved scheme shall be implemented for the duration of the development;**
- o) The development shall be carried out in accordance with the approved Dust Control and Mitigation Statement, received by the County Planning Authority 17 April 2008 and approved 20 May 2008. The approved scheme shall be implemented and maintained for the duration of all operations associated with the co-mingled materials reclamation facility;**
- p) The development shall be carried out and maintained in accordance with the approved bbs-tek Backalarm system, product reference BBS-90 (NSR) or**

similar, and accompanying statement outlining the details and the type of vehicle alarms to be used at the site, received by the County Planning Authority 21 January 2008 and approved 3 April 2008;

- q) Notwithstanding the submitted details, within 1 month of the date of this permission, an updated scheme for controlling fly levels shall be submitted to the County Planning Authority for approval in writing. The scheme shall include measures for monitoring and recording fly levels at the site including details of measures to be undertaken if fly levels are recorded as excessive. Thereafter, the approved scheme shall be implemented for the duration of the development;
- r) The development shall be carried out and maintained in accordance with the Management Plan – Protocol for the Control of Odour, Version 2, dated June 2018. The Protocol shall be implemented for the duration of the development;
- s) There shall be no discharge of foul or contaminated drainage from the site into either the groundwater or any surface waters, whether direct or via soakaways;
- t) No additional or increased flows of surface water shall be discharged onto Network Rail land or into Network Rail's culvert or drains. No soakaways shall be constructed within 10 metres of Network Rail's boundary;
- u) Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound shall be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound shall be at least equivalent to the capacity of the largest tank, or the combined capacity of interconnected tanks, plus 10%. All filling points, vents, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground and protected from accidental damage. All filling points and tank overflow outlets shall be detailed to discharge downwards into the bund;
- v) Surface water from vehicle parking and hard standing areas shall be passed through an interceptor or adequate capacity prior to discharge. Roof drainage shall not be passed through any interceptor;
- w) Water pipes used to serve the development must not be susceptible to residual contamination on the site and buried services must be laid within 0.5 metres surround of clean sand in areas of ash and graphite fill;
- x) The development shall be carried out and maintained in accordance with approved drawing numbered: 50299/ST/60/100, Rev D, titled: Proposed External Lighting Layout, and subsequent approved amendments as shown on drawing number: 9685(P)100, titled: Front Elevation, document titled: External Lighting prepared by Cooper Lighting and Safety, dated 25 November 2008, and cover letter dated 24 September 2009, Ref: JC/AJ/9685;

- y) The development shall be carried out and maintained in accordance with approved landscaping scheme and revised native landscaping scheme for the frontage of the site, as shown on drawing numbered:425-01.01, Rev E, titled: Proposed Landscape and Ecological Enhancement Scheme. Within 5 years of planting, any trees, shrubs or plants that die, become diseased or are moved or damaged, shall be replaced in the first available planting season with others of a similar size and species and in accordance with the approved scheme, unless the County Planning Authority gives written approval of any variation;
- z) The permitted hours of operation in connection with the CMRF shall be 06:00 to 23:00 hours Mondays to Fridays, inclusive and 07:00 to 17:00 hours on Saturdays with no operations on Sundays, Christmas Day, Boxing Day or New Year's Day;
- aa) Plant maintenance (within the building only) shall be carried out at any time during the week Mondays to Sundays, except on Christmas Day, Boxing Day or New Year's Day;
- bb) No HGVs shall enter and leave the site between 22:00 hours and 06:00 hours on any day;
- cc) No handling, deposit, storage or transfer of waste shall take place outside the confines of the building hereby permitted, except in the following limited circumstances:-
- Sheeted metal containers holding glass and rejects may be stored outside of the building temporarily, awaiting collection on either the same or next weekday working day. Such storage must only take place in the approved storage areas, as shown on Drawing Numbered: 2362-01-03, titled: 'Proposed Site Layout';
 - Sorted baled plastics and metals may be stored outside of the building for up to a maximum of 25 days in any single calendar year, and records of what dates the sorted baled plastics and metals are stored externally shall be kept by the operator and made available to the County Planning Authority on written request for the duration of the operations on the site. Storage of sorted bales is only authorised in the approved storage area, as shown on Drawing Numbered: 2362-01-03, titled: 'Proposed Site Layout' from where external loading of the bales can take place in order to export the material from site. The external sorted baled plastics and metals shall not exceed a maximum height of 2.5 metres.
 - Damaged wheelie bins may be stored outside of the building awaiting collection. Such storage must only take place in the approved storage area, as shown on Drawing Numbered: 2362-01-03, titled: 'Proposed Site Layout'.
- dd) No materials shall be burnt on the site;
- ee) The development shall be carried out and maintained in accordance with approved external materials and colours of the new building details, as

shown on drawing numbered: 9685(P)3, titled: Elevations and cover letter from Mr John Charles, Ref: 9685/JC/JSW received by the County Planning Authority 14 May 2008 and approved 20 May 2008;

- ff) All doors to the building shall be kept closed, except in the following limited circumstances:-
- When the delivery vehicle is, owing to its length and the available capacity in the reception area, unable to discharge its load whilst fully inside the building with the doors closed, unloading may take place with the doors open. Such unloading shall take place as rapidly as is practicable and the doors closed immediately thereafter; and
 - When the collection vehicle is, owing to its length, unable to be loaded whilst fully inside the building with the doors closed, loading may take place with the doors open. Such loading shall take place as rapidly as is practicable and the doors closed immediately thereafter.
- gg) The development shall be carried out and maintained in accordance with the approved details of the design and height of the security fencing and gates along the boundaries, as shown on drawing numbered: 425-01.01, Rev E, titled: Proposed Landscape and Ecological Enhancement Scheme and drawing numbered: K628 L109, titled: security fencing & Gate As Proposed; and
- hh) Prior to the site operating during the extended Saturday (13:00 to 17:00 hours) operating hours, acoustic treatment of the suction fan that powers the polythene film extractor unit, located at the north-east corner of the process building, in accordance with Section 7.1 Recommendations & Residual Effects of the submitted Noise Assessment, dated 2 October 2014, Ref: R14.0904/DRK, prepared by Noise and Vibration Consultants Ltd shall be implemented and maintained for the duration of the development; and
- ii) Notwithstanding the submitted details, prior to the installation of ventilation louvres as shown on drawing numbered: 2362-01-02, titled: 'Elevations', the detailed design of the ventilation louvres including colour and dimensions shall be submitted to the County Planning Authority for approval in writing. These ventilation louvres shall be fitted with an acoustic louvre, attenuator or acoustic baffle to reduce noise break-out by at least 15 dB(A). Thereafter, the development shall be carried out in accordance with the approved details.

Contact Points

County Council Contact Points

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Specific Contact Points for this report

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Background Papers

In the opinion of the proper officer (in this case the Head of Strategic Infrastructure and Economy) the following are the background papers relating to the subject matter of this report:

The application, plans and consultation replies in file reference: 18/000035/CM.