



County Offices  
Newland  
Lincoln  
LN1 1YL

5 February 2016

## **Planning and Regulation Committee**

A meeting of the Planning and Regulation Committee will be held on **Monday, 15 February 2016 at 10.30 am in Council Chamber, County Offices, Newland, Lincoln LN1 1YL** for the transaction of business set out on the attached Agenda.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Tony McArdle', written over a horizontal line.

Tony McArdle  
Chief Executive

## **Membership of the Planning and Regulation Committee** **(15 Members of the Council)**

Councillors I G Fleetwood (Chairman), D McNally (Vice-Chairman), J W Beaver, D Brailsford, G J Ellis, D C Hoyes MBE, D M Hunter-Clarke, M S Jones, Ms T Keywood-Wainwright, N H Pepper, Mrs H N J Powell, Mrs J M Renshaw, C L Strange, T M Trollope-Bellew and W S Webb



**PLANNING AND REGULATION COMMITTEE AGENDA  
MONDAY, 15 FEBRUARY 2016**

<b>Item</b>	<b>Title</b>	<b>Pages</b>
1.	<b>Apologies/replacement members</b>	
2.	<b>Declarations of Members' Interests</b>	
3.	<b>Minutes of the previous meeting of the Planning and Regulation Committee held on 11 January 2016</b>	5 - 8
4.	<b>Minutes of the Site Visit to Planning Application No. H23/1042/15 (Change of Use of Land at the Bungalow, Oxcroft Bank, Moulton Chapel)</b>	9 - 10
5.	<b>Application for land to the rear of the Royal Oak Public House, Main Street, Long Bennington to be registered as a Town or Village green</b>	11 - 24
6.	<b>Traffic Items</b>	
6.1	<b>London Road, Grantham - Proposed Waiting Restrictions</b>	25 - 40
7.	<b>County Matter Application</b>	
7.1	<b>Supplementary Report - To operate a scrapyards at land at The Bungalow, Oxcroft Bank, Moulton Chapel - Mr Tony El Houly - H23/1042/15</b>	41 - 62
8.	<b>County Council Application</b>	
8.1	<b>Proposed temporary vehicular site construction access with subsequent conversion to a permanent pedestrian access to the school at Balmoral Avenue Play Park, Balmoral Avenue, Spalding - H16/1135/15</b>	63 - 74

Democratic Services Officer Contact Details

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**Please note:** for more information about any of the following please contact the Democratic Services Officer responsible for servicing this meeting

- Business of the meeting
- Any special arrangements
- Copies of reports

Contact details set out above.

All papers for council meetings are available on:  
[www.lincolnshire.gov.uk/committeerecords](http://www.lincolnshire.gov.uk/committeerecords)

# Agenda Item 3.



## PLANNING AND REGULATION COMMITTEE 11 JANUARY 2016

### **PRESENT: COUNCILLOR I G FLEETWOOD (CHAIRMAN)**

Councillors D McNally (Vice-Chairman), J W Beaver, D Brailsford, G J Ellis, D C Hoyes MBE, D M Hunter-Clarke, M S Jones, Mrs M J Overton MBE, N H Pepper, Mrs J M Renshaw, C L Strange and W S Webb

Councillor C J Davie attended the meeting as an observer

Officers in attendance:-

Steve Blagg (Democratic Services Officer), Neil McBride (Planning Manager) and Paul Rushworth (Solicitor)

### 62 APOLOGIES/REPLACEMENT MEMBERS

Apologies for absence were received from Councillors T Keywood-Wainwright and T M Trollope-Bellew.

The Chief Executive reported that under the Local Government (Committee and Political Groups) Regulations 1990, he had appointed Councillor Mrs M J Overton MBE to the Committee, in place of Councillor Mrs H N J Powell, for this meeting only.

### 63 DECLARATIONS OF MEMBERS' INTERESTS

No interests were declared at this stage of the meeting.

### 64 MINUTES OF THE PREVIOUS MEETING OF THE PLANNING AND REGULATION COMMITTEE HELD ON 7 DECEMBER 2015

RESOLVED

That the minutes of the previous meeting of the Planning and Regulation Committee held on 7 December 2015, were agreed as a correct record and signed by the Chairman.

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**11 JANUARY 2016**

- 65     COUNTY MATTER APPLICATION
- 66     TO CHANGE USE OF LAND AT THE BUNGALOW, OXCROFT BANK, MOULTON CHAPEL TO A SCRAP YARD COMPRISING PRINCIPALLY OF AN END OF LIFE VEHICLE DEPOLLUTION, DISMANTLING AND RUSE OPERATION. IT IS PROPOSED THAT AN OPEN SIDED SHEET METAL BUILDING WOULD BE ERECTED TO ALLOW WORK ON THE VEHICLES AND AN EXISTING STATIC CARAVAN WOULD BE USED AS A SITE OFFICE. H23/1042/15

Comments made by the Committee included:-

1. The Highways Officer's comments in the report were misleading as the road to the applicant's site was used infrequently and vehicles only visited the applicant's site.
2. There was no sign of damage to the verge from vehicles visiting the applicant's site.
3. There were no adverse comments from local people.
4. The site was well screened and not overlooked.
5. There was another development close to the applicant's site which was in open countryside and visible from some distance away. (Note: This comment was subsequently withdrawn as it was not a material planning consideration to this application).
6. Was the road leading to the applicant's site a public highway or a By-Way?
7. There was a need for businesses like this one and this was a suitable location for this type of business.
8. The type of vehicle visiting the applicant's site would be small and not HGVs.
9. Noise was not an issue as the only resident was the owner of the bungalow adjacent to the site who proposed to lease the site to the applicant.
10. The County Council had fewer resources to repair roads and the applicant should be asked whether he was prepared to make a contribution towards the cost of repairs to the road leading to his site.
11. The business would provide extra employment.
12. The possibility of de-commissioning the road leading to the site by the highways authority should be examined.
13. Should the Environment Agency grant a licence for the site then it would be possible for the applicant to increase the number of vehicles he could handle. Was it possible for the planning authority to take enforcement action if the tonnage handled at the site got too high?
14. The road leading to the applicant's site was wider than it looked on the photograph because it was overgrown with grass.

The officer's responses included:-

1. The road leading to the applicant's site was highway maintainable at public expense.
2. By allowing the application would potentially cause further damage to Randall Bank with the responsibility and the cost of undertaking repairs to the highway having to be met by the County Council.

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3. Aware of any other developments in the area but each application had to be treated on its own merits.
4. He agreed that the vehicles carrying end of life vehicles to the site were small in size typical of a flat bed recovery truck.
5. The application site was owned by the adjacent owner of the bungalow and would be leased to the applicant.
6. The applicant could be asked if he was prepared to make a contribution towards the cost of maintenance of the local highway but this was likely to make his business unviable due to the costs involved.
7. The County Council would liaise with the Environment Agency in connection with any permit issued by the Agency to ensure that the local amenity was not affected by any increase in the tonnage handled at the site that the permit might allow.
8. Any proposal to extend the site or increase the tonnage would require further planning approval.
9. It was agreed that any decommissioning of the road leading to the applicant's site could be discussed with highways but a member stated that the road leading to the applicant's site was used by agricultural vehicles further down and that the road led eventually to another public highway.

On a motion by Councillor M S Jones, seconded by Councillor D Brailsford, it was –

RESOLVED (11 votes for, 0 votes against and 2 abstentions)

That consideration of the application be deferred pending a site visit arranged for 10.00am on 2 February 2016 and that the opportunity also be taken to visit a similar site to the application site at the same time.

The meeting closed at 11.15 am

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# Agenda Item 4.



## PLANNING AND REGULATION COMMITTEE SITE VISIT 2 FEBRUARY 2016

### **PRESENT: COUNCILLOR I G FLEETWOOD (CHAIRMAN)**

Councillors G J Ellis, D M Hunter-Clarke, Ms T Keywood-Wainwright, N H Pepper, Mrs H N J Powell, Mrs J Renshaw, C L Strange and W S Webb.

Also in attendance – Councillor R G Fairman (local Member)

Officers in attendance:-

Steve Blagg (Democratic Services Officer) and Neil McBride (Development Manager)

#### 1 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors J W Beaver, D Brailsford, D C Hoyes MBE, M S Jones, D McNally and T M Trollope-Bellew

#### 2 SITE VISIT TO MOULTON CHAPEL (SCRAP YARD, END OF LIFE VEHICLES RECYCLING) APPLICATION NO. H23/1042/15

Following a decision to defer planning application No. H23/1042/15, at the meeting of the Planning and Regulation Committee on 11 January 2016, the Committee visited the application site located on Oxcroft Bank, Moulton Chapel.

The officer described the location of the site which was currently a hardstanding area and stated the main issue was access to the public highway from the application site on to Oxcroft Bank. The proposed site involved the construction of a new shed which would be open sided and spare parts would be stored within the building and the shells of the cars would be stored outside. The Committee was informed that the application site would receive approximately four vehicles a week and most of the vehicles would be received from the locality. The issue of fluids from the vehicles was a matter for the Environment Agency which would be captured through the Environmental Permit.

Following the visit to the application site the Committee then visited an operational site on Gull Road, Whaplode which was located at a former agricultural building which had been converted into a facility for dismantling cars. The Committee was informed that the building used on this site already existed prior to its alteration to deal with end of life vehicles.

The site visit finished at 2.30pm

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## Regulatory and Other Committee

### Open Report on behalf of Richard Wills, Executive Director for Environment and Economy

Report to:	<b>Planning and Regulatory Committee</b>
Date:	<b>15 February 2016</b>
Subject:	<b>Application for land to the rear of the Royal Oak Public House, Main Street, Long Bennington to be registered as a town or village green</b>

#### Summary:

The Committee are asked to consider an application submitted to the County Council under the provisions of section 15(1) of the Commons Act 2006 to register land as a town or village green in Long Bennington: to consider the relevant legal issues that should be taken into account when considering such an application and to make a decision on the application

#### Recommendation(s):

That the application to register land to the rear of the Royal Oak Public House Main Street Long Bennington as a town or village green is rejected as the applicant has failed to provide sufficient evidence to meet the required statutory tests

#### Background

1. **The Application**
  - 1.1 **Preliminary procedure**

Lincolnshire County Council are the commons registration authority under the provisions of the Commons Act 2006 ("the Act") and are obliged to amend the statutory register where unregistered land in the County of Lincoln becomes a town or village green within the meaning of the Act.
  - 1.2 There are two main tests within the Act against which the Council must assess an application. Under both tests the main requirement is as follows

*A significant number of inhabitants of any locality or of any neighbourhood within the locality indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years.*

- 1.3 However under the requirements set out in subsection 15(2) of the Act, the use must be continuing at the time of the application. Under the requirements set out in subsection 15(3) of the Act, the use does not have to be continuing at the time of the application as long as the application is made within the relevant period of the use ceasing.
- 1.4 On 9 December 2014, the County Council received an application on behalf of Long Bennington Parish Council for the registration of land to the rear of the Royal Oak Public House as a town or village green. The application stated that the inhabitants of the locality had indulged in lawful sports and pastimes for at least the last 20 years and that the use of the land ceased approximately 18 months before the application (i.e the application was made under subsection 15(3) of the Act). The application was not supported with any additional evidence.
- 1.5 The County Council are entitled under regulation 5(4) of the Commons (Regulation of Town and Village Green) (Interim Arrangements)(England) Regulations 2007 to inform the applicant of any action that they may take to put the application in order by giving them a reasonable opportunity to do so.
- 1.6 On 2 March 2015, the applicants were informed that the County Council considered that the original application to be defective as they had stated that the use had ceased some 18 months before and had not submitted any evidence to support this. They were given an opportunity to rectify the mistake.
- 1.7 On 11 March 2015, the applicants submitted an amended application form with one statutory declaration from a local resident stating that the use of the land was still continuing (i.e evidence supporting an application under subsection 15(2) of the Act, a different section to that which had been applied for). They were also informed that they needed to submit additional evidence to substantiate their claim. A further 4 additional user evidence questionnaires were submitted together with photographs and documentary evidence.
- 1.8 When the applicants re-submitted the amended application form in March, the County Council had to consider this as a fresh application, and the application form should therefore have been accompanied with a new statutory declaration from the applicants and the plans produced as part of the application should have been marked and exhibited as part of the statutory declaration as per the requirements under the Commons (Regulation of Town and Village Green) (Interim Arrangements)(England) Regulations 2007. On 30 April 2015, the County Council noted that these procedural requirements had not been met and the applicants were requested to rectify this.
- 1.9 On 15 May 2015 the applicants submitted the required documentation but had appended to it the original application form dated 9 December 2014 and not the amended one dated 11 March 2015. The County Council

sought clarification from the applicant who indicated that the application was being made under section 15(3) of the Act, that the use of the land had ceased 18 months previously and that no additional evidence would be submitted.

1.10 The application site is within the freehold ownership of NewRiver Trustee 7 Limited and NewRiver Trustee 8 Limited. On 16 December 2014 a planning application was submitted to South Kesteven District Council to develop the land with the erection of 8 detached and semi-detached houses, this application has been held in abeyance until the determination of this village green application.

1.11 Notice of the application has been displayed and advertised in the local newspapers circulating in the area, one objection has been received from the landowners.

## 2.0 **Consideration of the application and objections**

### 2.1 **Landownership and its use**

The land subject to this application forms part of the beer garden to the rear of the Royal Oak Public House and was sold by Marstons Plc to the current owners in 2013. The landowners are NewRiver Trustee 7 Limited and NewRiver Trustee 8 Limited who act as trustees on behalf of NewRiver Retail (Portfolio no 4) Ltd.

2.2 Town and village green applications are in the main contentious issues and there are many recent examples of appeals being lodged as a consequence of decisions made by registration authorities. It is therefore considered prudent to ensure that all of the facts pertaining to the application and the objections are carefully and thoroughly examined. This is particularly relevant where there is disputable evidence or where there is no clear and concise written evidence to be certain that either party is correct in its submissions.

## 3.0 **Onus of proof**

3.1 The person making the application for the registration of the land as a town or village green, must if they wish to succeed prove his case, if he fails to provide sufficient evidence and persuasive evidence in respect of any requirement then his claim should fail.

3.2 The application was supported by user evidence questionnaires and one statutory declaration, photographic evidence and documentary evidence. However three of the forms have not been dated and one form is not signed or dated by the individual. Therefore the content of that one form cannot be verified as being that individual's evidence.

4.0 **Outline of relevant issues.**

4.1 The application is made under subsection 15(3) of the Act (as amended) which, as stated above, is applicable where;-

*"A significant number of inhabitants of any locality or of any neighbourhood within the locality indulge as of right in lawful sports and pastimes on the land for a period of at least 20 years and that the use has continued up to 12 months before the date of the application."*

Prior to the 1 October 2014, an applicant had to show that the use of the land ceased within 2 years prior to the application, however, this was reduced to 12 months by the Growth and Infrastructure Act 2013. Therefore as the application is dated 9 December 2014, the County Council must apply the legislation relevant at that date.

The issues that need to be considered in respect of this application are therefore;-

4.2 **(a) Has the use been by a significant number of inhabitants?**

4.2.1 The applicant has to show that the land has been well used by the local community and not occasional use by the individuals. To support the application the applicant forwarded one statutory declaration and four user questionnaires. However, one of the individuals does not live in the area and claims to be a "regular visitor to the village", her evidence in relation to her use of the land has therefore been discounted.

4.2.2 The evidence submitted is lacking in detail, none of the users state to have actually used the land, apart from attending organised activities, the evidence does not provide information as to how long the stated use has continued nor how often or when the use has been. As it appears that the use of the land has been occasional use by individuals and not general use by the community as a whole.

4.2.3 Based upon the evidence submitted it is considered insufficient for it to constitute "significant" use, despite the fact that the applicant has suggested on the application form that it was well used by the local residents; this assertion has not been supported by any further evidence despite repeated requests. This criterion has not been satisfied.

4.3 **(b) Is the land situated in any locality or any neighbourhood within a locality?**

4.3.1 Locality has been suggested to mean an administrative area for example a manor or parish, neighbourhood within a locality means an area of sufficient degree of cohesiveness. The applicant has stated that the locality is that of the parish of Long Bennington, this criterion has been satisfied.

4.4 **(c) Are the activities claimed to have taken place lawful sports and pastimes?**

4.4.1 The courts have held that lawful sports and pastimes can include a variety of uses including "such outdoor pursuits as walking their dogs, playing family and children's games, flying kites, picking blackberries, fishing in streams and tobogganing down slopes".

4.4.2 In order to satisfy the requirement the lawful sports and pastimes should be (1) lawful (2) definite (3) engaged in by more than a few isolated individuals.

4.4.3 From the evidence provided some of the uses claimed to have taken place on the land may fall under this category of being lawful sports and pastimes. However, some will not, these are discussed in more detail below.

4.4.4 The applicant has failed to provide any evidence from any user that they have actually participated in these activities; users claim to have witnessed individuals but have failed to provide additional information and evidence to support this. In addition, they have failed to show how long they have used the land, how often and when they used the land.

4.5. **(d) Has the use been "as of right"?**

4.5.1 The activities undertaken on the land must have taken place "as of right", this means :-  
(1) without resort to force  
(2) without secrecy  
(3) without express or implied licence or permission from the landowner.

4.5.2 No evidence has been submitted to show that the use of the land required force or that the use was carried out in secret.

4.5.3 However, some of the uses claimed may have been with the owner's permission. For example, the programme for the Coronation states that the use was with kind permission of Mr W B Bingham. Activities such as the steam fayre, car club events, circus, camping, live music, summer fetes, firework displays all indicate that permission of the owner was needed.

4.5.4 The applicant also submitted a photograph showing a sign placed at the entrance to the land stating "*customers must keep their dogs on a lead at all times children play in this garden please clean up*" which affirms this view.

4.5.5 The objector landowners, have confirmed this with the evidence of the current landlord that all organised activities have taken place on the land with his consent. And they have submitted a photograph of a sign indicating that the land is considered "*private property and is for patrons*

*only*". But none of the users have referred to seeing any signage that restricted their usage.

4.5.6 Therefore not all of the activities claimed to have taken place on the land can be deemed to have taken place "as of right" as they have been carried out with the owner's permission.

4.5.7 The applicant has also failed to provide information as to who has used the land, what activities they participated in, when, how long for and how often.

4.6 **(e) Has this been for a period of at least 20 years?**

4.6.1 The applicant claims that the land became a town or village green on 9 December 2014. Therefore the applicant has to show the use of the land for lawful sports and a pastime covering the period December 1993-December 2013, the use has to be continuous.

4.6.2 The evidence provided often refers to periods of time before the relevant 20 year period for example the Coronation booklet. One user has stated most of the activities that they are aware of took place between 1970-1993, this is outside of the relevant 20 year period.

4.6.3 Three of the users state to have only known the land in the later part of the relevant period, being from 2005, summer 2012 and from 2010. Therefore the applicant has failed to show that a significant number of people have used the land during the relevant period, nor that the use of the land has occurred during the periods claimed. This criterion has not been satisfied.

4.7 **(f) That the use ceased 12 months before the date of the application?**

4.7.1 The applicant claims that the use of the land ceased 18 months prior to the application. Therefore they were required to provide evidence that the claimed use ceased in June 2013. As previously stated the Growth and Infrastructure Act 2013 reduced the time period that the claimed use had to cease within, to 12 months from the date of the application.

4.7.2 This creates a fundamental difficulty as it contradicts the basis for registration under section 15(3) of the Act i.e. that the use had ceased within the previous 12 months; the application does not therefore comply with these requirements.

5.0 **Summary of objections**

5.1 The objectors are challenging the application on the grounds that it has not met the statutory tests. They contend that the land should not be registered as a town or village green for the following reasons;-

(a) that the landowner has given permission to use the land for recreational purposes and has supported this with a statutory



declaration from the current landlord of the Royal Oak .He confirms that he gave permission for various organised activities to take place on the land for example, the last bonfire night on the land was 10- 11 years ago and people were charged for entry, the steam fayre and classic car events are with prior arrangement where the organisers seek his permission, therefore usage is not "as of right".

- (b) that the applicant has failed to provide sufficient information to show that a significant number of inhabitants of a locality or neighbourhood within the locality have used the land for recreational purposes, that they have failed to demonstrate 20 year use with sufficient intensity and duration of use that would justify the registration as a town and village green.
- (c) That the application contains reference to a building i.e. a listed barn, whereas the Act only applies to land and not to buildings, therefore the barn should be excluded and any evidence relating to its use should be disregarded.

## **Conclusion**

- 6.0 In assessing the application the officers have disregarded any references to any use of the listed barn as the claimed use is that of a bowling alley and any use associated with this use would be by invitation of the landowner i.e. the use could be regarded as by right and not as of right.
- 6.1 The onus has been upon the applicant to properly and strictly prove the application; they have failed to provide sufficient evidence to satisfy the statutory tests under section 15(3) of the Act. Therefore the application should be rejected.
- 6.2 The County Council have sought independent legal advice on this application from a barrister. The barrister advised that the application should be allowed to continue to publication, but upon reviewing the evidence submitted by the applicant that they considered that the applicant had failed to satisfy the statutory tests and that the application should be rejected.
- 6.3 If the committee are not in agreement with this approach, they are reminded that if the application is not rejected it will have to be considered by an independent adjudicator who will hold a non- statutory public inquiry to determine the application.

## **Consultation**

## a) Policy Proofing Actions Required

n/a

## Appendices

These are listed below and attached at the back of the report	
Appendix A	Assessment of Evidence

## Background Papers

The following background papers as defined in the Local Government Act 1972 were relied upon in the writing of this report.

Document title	Where the document can be viewed
Application and supporting evidence submitted by the Applicant	Legal Services
Evidence submitted in response by the Objectors	Legal Services
right of reply by applicants	Legal Services

This report was written by Mandy Wood, who can be contacted on 01522 552103 or [mandy.wood@lincolnshire.gov.uk](mailto:mandy.wood@lincolnshire.gov.uk).

## ASSESSMENT OF EVIDENCE

APPLICATION TO REGISTER LAND TO THE REAR OF  
THE ROYAL OAK PUBLIC HOUSE , MAIN STREET, LONG  
BENNINGTON AS A TOWN OR VILLAGE GREEN UNDER  
THE PROVISIONS OF SECTION 15(1) COMMONS ACT 2006

### **Evidence submitted to support the application**

#### **1. By the applicant**

##### **Documentary Evidence**

The applicant as part of their application submitted documentary evidence.

##### **Photographs**

###### **Of the land-**

A photo showing a goal post set in a grassed area taken from the gate way. It does not show anyone using the land and it is not date/time stamped. It does not show any evidence of public usage of the land.

###### **Notice of public usage**

The sign states that "Customers must keep their dogs on leads at all times. Children play in these gardens, please keep it clean". The staples holding the sign in place are rusty; this would indicate that it has been in situ for a while. The wording of the sign would indicate that the use of the land is with the landowners consent.

###### **Steam Rally**

This shows a small steam engine, caravans and vans parked on the land. It does not show any public usage of the land.

##### **Other documentary evidence**

###### **Coronation programme dated 2 June 1953**

This has been submitted as it is alleged that it shows that the land was used by the public. The programme states at page 2 that the "Children's sports on the green by kind permission of Mr W B Bingham". This would indicate that the use of the land for this occasion was with the permission of the landowner.

###### **Advert from the Gonerby Gazette dated April 2013**

The advert states that the pub's amenities include a large beer garden and games paddock. It is alleged that this indicates that the area is open for the public to use.

### **User evidence**

To support the application the applicant submitted 5 documents from members of the public, 1 statutory declaration and 4 user evidence forms.

#### 1. Michael Walker

In this statutory declaration Mr Walker states that he has lived in the village for 31 years and has taken part in or has been concerned with a number of events on the land. He has attended firework events, gymkhanas, steam fairs, car club events, caravan rallies and football games and the circus has occupied the site. Events were common from 1970's until 1993 with the previous landlords. Most events were free to the public.

He states that he has observed children playing on the land as there is an open gate at the entrance to the land. There is also a brick skittle alley that has been used for pub games evenings. He also believes that the area of land is a valuable community asset.

Mr Walker states that he has attended events on the land during the 1970's to 1993, he does not state that he still uses the land and his evidence indicates that the events may have been organised by the former landlord of the pub. If this is the case, any use of the land would have been with the permission of the owner.

He states that a circus has occupied the site; any attendance at the circus by the public would have been with payment and therefore cannot be regarded as public usage. For the circus to be located on the land they would have required the landowners or tenants permission to do so.

He states that he has historically witnessed children playing on the land; Mr Walker does not state that he recognises or knows the children; this may indicate that they may not be from the village but may be children of parents who are visiting the pub. Therefore their use would have been with the permission of the landowner. He also indicates that it was historic usage and this would indicate that is not being used currently by children.

He also states that the land had a skittle alley on it and that it was used for pub games, this evidence indicates that the sole use of the building was for pub games, this use would have been with the permission of the landlord and therefore may not be regarded as public usage.

Unfortunately, the County Council are not able to take into account whether or not the land is a community asset when determining if the land should be registered as a village green nor are they able to use any evidence relating to the barn as a village green only relates to land.

## 2. Ruth Tytherley

The user evidence form of Ms Tytherley indicates that she has only known the land since 2005. She lists the activities that she is aware that have taken place on the land which include a miniature steam rally, classic car meets, football games, children's games, dog walking, foraging, social meeting place, walkers, wildlife enthusiasts, paddock, grazing land, bird spotting and camping. She states that the use of the land is a combination of yearly, monthly (in the summer) weekly and daily. She states that during the spring and summer the land is in constant use especially after working hours and at weekends.

She also comments that the land would be a loss to the village as it is the last remaining piece of open land. Unfortunately, the County Council are not able to take into account whether or not the land is a community asset when determining if the land should be registered as a village green.

Ms Tytherley has not stated in her evidence that she uses the land, how often she uses it or for what activities. Most of the events that she states to have taken place on the land could be with the owner's consent or permission i.e. the steam rally, classic car meets and camping. The use of the land as a paddock, for grazing, social meeting place may not fall under category of lawful sports or past times.

It is noted that the form has not been dated.

## 3. G Tate

The user evidence of Ms Tate states that she lives in Calverton. In order to satisfy the criteria the people using the land should be "an inhabitant of the locality", which is stated on the form to be the parish of Long Bennington. Ms Tate lives approximately 19 miles from Long Bennington.

She states she has known the land since 2010 and that the land is used for steam rallies, football matches and a children's play area. These activities may all be with the permission of the landowner or landlord.

She does not state that she uses or has used the land; how often or what activities she takes part in on the land. She does states that she was made aware that the land was used historically; this would indicate that the land is not in current use.

She states that the land is used a lot in the summer. She states that she values the land as being open for use. Unfortunately, the County Council

are not able to take into account whether or not the land is a community asset when determining if the land should be registered as a village green.

It is noted that the form is not signed nor dated by Ms Tate.

#### 4. Steve Longden

The user evidence form of Mr Longden states that he has known the land since moving to the village in 1992 and that he believes that the land was in use then for village activities.

He states that the land has been used for small summer fetes, firework displays, football fund raising days, steam rallies, caravan rallies, live music and is an open space where children can play. The uses that he lists are all ones that may have been with the owners or landlords permission.

He states that the land is used by children all year especially during the spring and summer and at weekends.

He does not state that he uses the land and neither does he state that his use is still continuing.

He comments that the land would be a loss to the village. Unfortunately, the County Council are not able to take into account whether or not the land is a community asset when determining if the land should be registered as a village green.

It is noted that he has not dated the form.

#### 5. Adele Thrush

In her user evidence form Ms Thrush indicates she has only known the land since the summer of 2012 and the land is used for a steam rally which occurs once a year. She does not state that she uses the land. The use claimed may be with the owner's consent or with their permission.

She states that the jubilee event would have benefited from extra space and that a mayday event with dressed ponies would be nice, this is not evidence that the land is or has been used by the inhabitants for lawful sports and past times.

She also comments that it would be a loss that green space is needed. Unfortunately, the County Council are not able to take into account whether or not the land is a community asset when determining if the land should be registered as a village green.

It is also noted that the form is not dated

## 2. **Evidence submitted by landowner**

The landowner has submitted photographs of a sign stating "polite notice – no through access private property patrons only". The photograph shows that it is secured in its location with drawing pins; these however appear to very new which would indicate that the sign has only recently been installed. They indicate that similar signs have been in similar location for the previous 4 years but have not submitted evidence to show this.

They have also submitted statutory declaration from 3 individuals.

### 1. Anthony Gordon Jacobs

Mr Jacobs is the current tenant and landlord of the Royal Oak and has held this position since 2011. He claims that upon taking over the pub he erected signage on the gate to the land stating that the land was private, he claims that this sign was removed and that he replaced it in 2014. He states that the use of the land is by patrons who do so with his permission. He confirms that the use of the land for community events has been with his consent. He stated that he erected the goal posts on the land for the enjoyment of the children of patrons.

He also forwarded copies of the land registry documentation that showed who the landowners are.

### 2. Debbie Reynolds

She forwarded photographic evidence from the internet to show that the classic car displays used the front of the property. In addition minutes of the Parish Council.

### 3. Justin Richard Jocelyn Thomas

He confirms that he is a consultant for the landowner and that he attended the site in September 2015 and submitted photographs taken on that date showing the layout of the land, signage and that the site is overgrown.

## **Additional comments made by the applicant.**

As part of the process the applicant was asked if they wished to make any comments on the evidence submitted by the objectors, on 28 October they submitted a letter. As part of that letter they included a photograph showing a gateway that is alleged to belong to an adjacent

cottage that has access to the land, a note regarding Mr Baggaley and his life, a photograph showing a garden fete in 1960's.

It should be noted that the additional evidence submitted cannot be considered in relation to the claim as it does not show that the use of the land was by the public as of right. The photograph of the garden fete is outside the time period being claimed.

Mandy Wood

7 December 2015

Senior Solicitor

Legal Services Lincolnshire



**Open Report on behalf of Richard Wills, Executive Director for  
Environment and Economy**

Report to:	<b>Planning and Regulations Committee</b>
Date:	<b>15 February 2016</b>
Subject:	<b>London Road, Grantham – Proposed Waiting Restrictions</b>

**Summary:**

The purpose of this report is to consider the objections received during the formal consultation to introduce a No Waiting At Any Time Traffic Regulation Order (TRO) at the entrance to the Retail Park, extending southwards to ensure greater visibility for exiting motorists and a No Waiting Mon-Fri 6am-6pm TRO starting from the existing waiting restrictions at the Station Road East junction and continuing to the proposed No Waiting At Any Time restrictions.

**Recommendation(s):**

It is recommended that the Committee agrees that the objection should be overruled and that the Orders be confirmed as proposed at consultation.

## **1. Background**

1.1 London Road (A52) is an arterial route through Grantham, carrying both commuter and industrial traffic. The width of London Road has been measured at 14m but narrows to 10.5m at the section to be affected by the proposed waiting restrictions. Therefore consideration has been given to the narrowing of the road, which is compounded by parked vehicles along the Western side.

1.2 It has become increasingly apparent that parked vehicles are causing difficulty for motorists exiting the London Road Retail Park. The proximity of parked vehicles to the entrance/exit to the Retail Park prohibits exiting motorists from being able to view oncoming traffic due to reduced visibility. Furthermore, vehicles approaching from the direction of Gainsborough Corner (travelling North) are unable to see pedestrians crossing the Retail Park entrance prior to turning into the access. Therefore in the interests of public safety it is proposed to restrict waiting in this area to aid visibility and, therefore, highway safety.

1.3 After concerns from local businesses had been received, inspections were carried out to assess traffic flow and vehicular safety in this area, as part of the overall review of waiting restrictions within the Grantham area. From these investigations the proposed waiting restrictions were identified.

## **2. Proposal**

2.1 To introduce waiting restrictions along the Western side of London Road, Grantham for a distance of 107m approximately. This is made up of approx. 51m of single yellow line; No Waiting Mon – Fri 6am-6pm, and 56m approx. of double yellow lines; No Waiting At Any Time restrictions.

## **3. Consultations**

3.1 The initial statutory consultations for this scheme took place between 17 February 2015 and 24 March 2015. After considering comments received alterations were made and statutory consultees advised on 27 July 2015. The proposal was then publically advertised between 28 August 2015 and 25 September 2015. Local Councillors had approved the proposals prior to the public consultation.

### **3.2 Councillor Comments:**

*County Councillor Charmaine Morgan:* 'I would support extending the existing no parking on the corners of the entrance to the London Road Industrial Estate by a further vehicle's length, to help improve visibility here.' However Cllr Morgan has expressed concern about further restrictions in the area.

*County Councillor Ray Wootten and District Councillor Nick Craft* both stated that the restrictions in the initial plan should be extended by 40m and 50m respectively. These views were considered and incorporated in the proposal being reviewed by this Committee.

## **4. Objections**

4.1 During the public consultation process an objection was received from a member of the public. The objection was made up of several issues, mainly objecting to the loss of on street parking in the area, leading to losses to local businesses, and that the road width is sufficient to allow appropriate flow in this area. The objection was made up of the following issues:

- i) As the road is suitably wide enough along this section, it will make little difference to the movement/flow of traffic in this area.
- ii) Allowing exemptions, such as Disabled Parking, Loading/Unloading etc. would defeat the object of having a No Waiting area and back up my first point.
- iii) It is a valuable piece of free on street parking for local people.

- iv) Too many free on street parking spaces have been lost already, some have been justified. This is not.
- v) Local businesses may suffer as a result of your plan.
- vi) Grantham and its residents are already suffering as a result of creeping parking restrictions and free spaces lost all around the town, restrictive road changes and poor markings. This proposal is another unnecessary burden.

## **5. Comments on Objections**

5.1 We would make the following comments to the respective issues raised by the objector as follows:

- i) Whilst the road may be of an appropriate width for effective traffic movement and flows, the proposal has been made upon safety grounds with regard to motorists exiting the Retail Park, and pedestrians crossing across the access.
- ii) The exemptions alluded to are the usual freedoms associated with such restrictions.
- iii) With regard to Issues iii), iv) and vi) above, as previously alluded to, Grantham as a whole is undergoing a thorough and comprehensive review of existing parking restrictions. This is in light of the growth, both industrial and residential, in the town centre itself, and its outskirts. As is to be expected with continuing development, the numbers of cars vying for parking spaces increases whilst the number of spaces remains finite, unfortunately in this area, it is to the detriment of other motorists and pedestrians. Each and every change to a TRO is consulted upon and assessed upon its own merits.
- v) The proposal can be viewed as having a positive impact to businesses in the area, both local independent businesses and national chains. As the restrictions will increase visibility when entering and exiting the Retail Park it will become a more favourable location to visit, thereby positively impacting upon the shops within the Retail Park. Furthermore, that the parking restrictions are solely in place Monday - Friday, the area is available for public parking free of charge during the weekend when one would expect demand to be at its highest. Currently the vehicles in this area have been seen to be parked for several days at a time, including over the weekends, therefore, installing these restrictions will no doubt lead to more parking for local people and businesses, not less as the objector claims.

## **6. Conclusion**

6.1 Whilst the objection issues have been noted it is recommended that the objection is overruled on this occasion. The proposal has been raised upon safety grounds and to reduce as far as practicable the likelihood of an incident occurring

when vehicles enter/exit the Retail Park. Moreover, the proposal received the overwhelming support of the Retail Park businesses in a meeting with LCC Highways and Councillors.

**a) Policy Proofing Actions Required**

N/A

**Appendices**

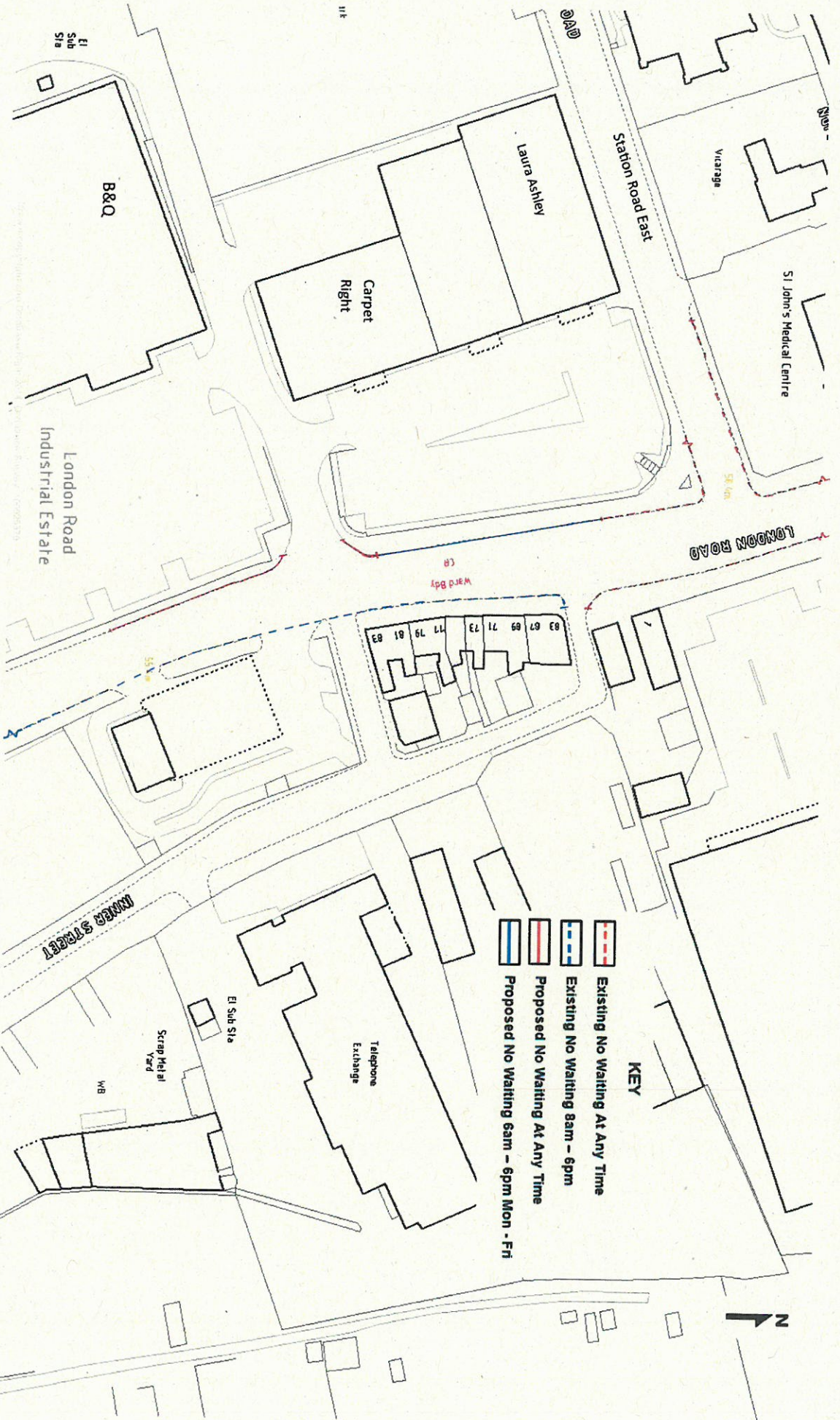
These are listed below and attached at the back of the report	
Appendix A	Location Plan
Appendix A1	Wider Location Plan
Appendix A2	Satellite Location Plan
Appendix B	Consultation Letter
Appendix C	Photographs
Appendix D	Public Notice

**Background Papers**


No background papers within Section 100D of the local Government Act 1972 were used in the preparation of this report.

This report was written by Mark Heaton, who can be contacted on 01522 782070 or [LCCHighwaysWest@lincolnshire.gov.uk](mailto:LCCHighwaysWest@lincolnshire.gov.uk).

# Appendix A - Location Plan



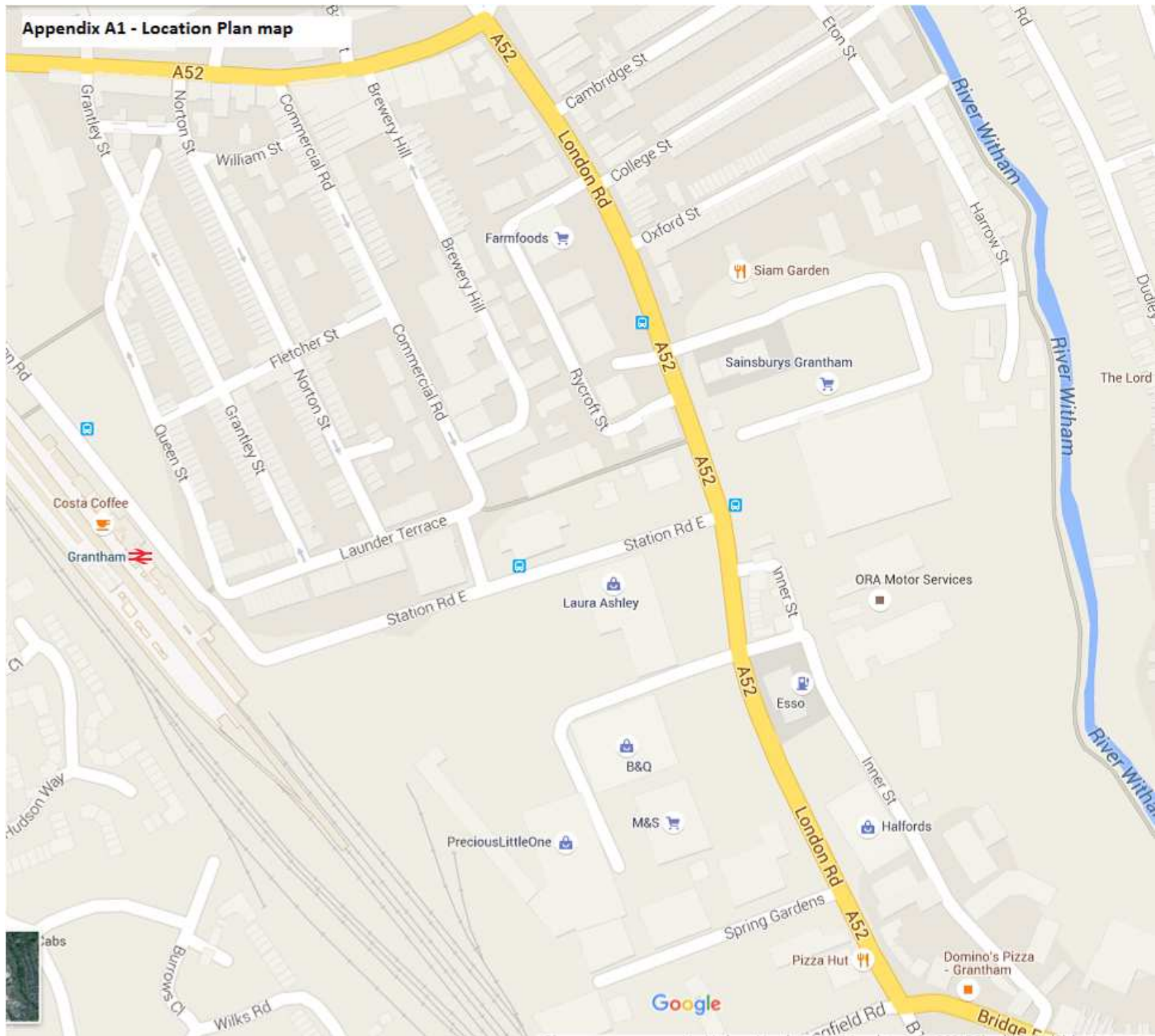
- KEY**
- Existing No Waiting At Any Time
  - Existing No Waiting 8am - 6pm
  - Proposed No Waiting At Any Time
  - Proposed No Waiting At Any Time
  - Proposed No Waiting 6am - 6pm Mon - Fri

 <p><b>Lincolnshire</b> COUNTY COUNCIL</p>		ENVIRONMENT & ECONOMY DIRECTORATE NETWORK SOUTH HIGHWAYS DISTRICT COUNCIL OFFICES NESTEVEN STREET SLEAFORD Lincs NG4 2EF	
DRAWN BY NW	SHEET No. 1 of 1	DRAWING NUMBER 185NW2JUL15	
CHECKED BY MH	REVISION 1 of 1	Proposed Waiting Restrictions Grantham, London Road (A52)	
SCALE 1:1000	DATE 21/07/2015		

"This map is reproduced from Ordnance survey material with the permission of the Controller of Her Majesty's Stationery Office Crown © Copyright. All rights reserved."

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Appendix A1 - Location Plan map



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Appendix A2 - Satellite location Plan



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## APPENDIX B – Consultation Letter

Our ref: NW/TROS/1/P1/185  
Date: 27/07/15

Environment and Economy  
Network South Highways  
District Council Offices  
Kesteven Street  
Sleaford  
Lincolnshire, NG34 7EF  
Tel: 01522 782070  
Fax: 01522 553171  
Email: [LCCHighwaysWest@lincolnshire.gov.uk](mailto:LCCHighwaysWest@lincolnshire.gov.uk)  
This matter is being dealt with by Natasha Weir

Cllr .....

Dear Cllr .....

### **GRANTHAM, LONDON ROAD – PROPOSED TRAFFIC REGULATION ORDER**

I write to seek your comments on the above.

This consultation follows on from recent inspections and consultations held with Councillors, Statutory bodies, businesses and the general public. As you are aware it has been noted that the parked vehicles along London Road, especially in the vicinity of the London Road Industrial Estate, cause both inconvenience and visibility problems for vehicles exiting the retail park. Having taken into account comments and suggestions put forward in the previous consultation we have amended the proposal as indicated below; and on the attached plan.

It is proposed that:

- No Waiting At Any Time restrictions are introduced along London Road, at the junction of the industrial estate.
- No Waiting 6am-6pm Monday – Friday, along London Road, as indicated on the plan.

I will be pleased to receive any comments you may wish to make on the proposals by 1<sup>st</sup> September 2015. If I do not receive a response by then I will presume that you are in support of the proposals.

Yours sincerely

For Mark Heaton  
AREA HIGHWAYS MANAGER – GRANTHAM

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Appendix C – London Road Photographs



Photographs 1 & 2 – Looking South: View from a motorist exiting Retail Park: lack of visibility due to parked vehicles.



3

Photograph 3:  
Facing North  
from Retail Park  
entrance.



4

Photograph 4:  
View of western  
side of  
carriageway

# **PUBLIC NOTICE**

## **LINCOLNSHIRE COUNTY COUNCIL (GRANTHAM – LONDON ROAD) (PROHIBITION OF WAITING) AMENDMENT ORDER 20**

NOTICE IS HEREBY GIVEN that the Lincolnshire County Council propose to make an Order under their powers contained in the Road Traffic Regulation Act 1984, the effect of which will be to:

No Waiting 6.00am to 6.00pm, Monday to Friday, on the west side of London Road north of London Road industrial Estate.

No Waiting at Any Time on the west side of London Road south of London Road Industrial Estate.

Exemptions are included which will permit waiting for disabled persons' vehicles and for the purpose of picking up or setting down passengers, loading or unloading of goods, the maintenance of the roads, and works in connection with the supply of gas, electricity, water and telecommunications apparatus.

A copy of the proposed Order and a plan showing the lengths of road concerned with a Statement of Reasons for proposing to make the Order may be inspected at the address given below and the offices of South Kesteven District Council, during normal office hours.

Objections to the proposals, together with the grounds on which they are made, must be sent in writing to R A Wills - Executive Director (Environment & Economy), Lincolnshire County Council, 4th Floor City Hall, Lincoln, LN1 1DN, (For the attention of: Mrs T Featherstone, Traffic Orders Section) by **25 September 2015**.

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**Open Report on behalf of Richard Wills  
Executive Director, Environment & Economy**

Report to:	<b>Planning and Regulation Committee</b>
Date:	<b>15 February 2016</b>
Subject:	<b>County Matter Application - H23/1042/15</b>

**Summary:**

Supplementary Report

Planning permission is sought by Mr Tony El Houly to operate a scrap yard at land at The Bungalow, Oxcroft Bank, Moulton Chapel.

This application was originally brought to the Planning and Regulation Committee meeting on 11 January 2016 with a recommendation that planning permission be refused. Having taken into consideration the comments and arguments put forward by the applicant, Officers considered that the proposed development conflicts with planning policy insofar as the applicant has not demonstrated that the development cannot be located within a defined settlement limit or that it would service a local need in this location and also felt that the highway infrastructure in this locality cannot support an increase in vehicle use of the type proposed. The detailed report presented at the 11 January 2016 meeting is attached as Appendix B.

At its meeting on 11 January 2016 the Planning and Regulation Committee resolved to defer the determination of the application in order to carry out a site visit to view the proposal site and its surroundings. The site visit took place on 2 February 2016.

**Recommendation:**

Following consideration of the relevant development plan policies it is recommended that planning permission be refused.

1. At its meeting on 11 January 2016 the Planning and Regulation Committee considered an application by Mr Tony El Houly for the proposed change of use of land at the Bungalow, Oxcroft Bank, Moulton Chapel to a scrap yard comprising principally of an end-of-life vehicle depollution, dismantling and re-use operation. As part of the application the applicant proposes to erect an open-sided sheet metal building within the site which would allow work on the vehicles to be carried out and also proposes to use an existing static caravan as a site office.

2. A copy of the detailed report presented to the 11 January 2016 Planning and Regulation Committee meeting is attached hereto as Appendix B. The Officer's recommendation as set out in that report was that planning permission be refused for the following reason:

The proposed new scrapyards would be an unacceptable development in the open countryside in terms of scale and use and would have a detrimental impact on the local transport network. The applicant has not provided sufficient information to demonstrate that the development cannot be located within a defined settlement limit or would be essential in the proposed location to service a local need or cause harm to the highways infrastructure. As a result, the applicant has failed to demonstrate that the proposed development accords with the criteria and objectives of Policies SG2, SG3, SG4, SG14 and EC3 of the adopted South Holland Local Plan (2006) and Policies WLP3 and WLP21 of the Waste Local Plan. The proposal is also considered to be contrary to the objectives of Policies W3, W7, DM1, DM3 and DM14 of the Core Strategy and Development Management Policies of the emerging Lincolnshire and Waste Local Plan.

3. During consideration of the application at the previous meeting, Members of the Planning and Regulation Committee considered it would be helpful to visit the site to view the condition of Oxcroft Bank and the local highway network leading to the site to get a better understanding of the impact of the proposed development on the local highway network. As a result, Members of the Committee resolved to defer the determination of the application in order to carry out a site visit to view the application site and its surroundings. The site visit took place on 2 February 2016.
4. Further discussions have taken place with Highways Officers following the comments made by Councillors at the January meeting. Highways confirm that their objection to the application is based on the fact that local highway network is not suitable to accommodate the vehicle movements that the application is expected to generate/attract. The carriageway surface of Randall Bank is un-metalled (it is believed to have a metalled surface beneath the unbound surfacing material). The unbound material has been placed on the top of the metalled surface without any consent from the Highways Authority. Being unbound, the carriageway surface will be more susceptible to damage and structural failure/rutting/ponding. Whilst this would not be an issue for agricultural traffic it would make it very difficult for the site to be accessed by purely road-going vehicles and with a commercial business on site requiring full-time access the Highway Authority would come under pressure to spend part of the highway maintenance budget on an unclassified road. In addition the site is in a remote location served only by narrow rural roads which are of low constructional standard and which are already suffering from drought damage. The introduction of unnecessary commercial vehicle movements onto this network of roads would only serve to hasten the deterioration of these roads.
5. The cost of resurfacing Randall Bank would be significantly disproportionate to the financial return from the proposed development and it is considered

that a Planning Obligation requiring a contribution from the applicant to undertake these works would not meet the tests of the NPPF set out in Paragraph 204 which requires that the obligation should only be sought where they are fairly and reasonably related in scale and kind to the development.

6. Highways would support the stopping-up of Randall Bank (the road ceasing to be classed as a public highway) but there is a requirement to undertake comprehensive consultation before this can take place and it is likely that objections would be received from adjoining landowners.
7. Since the original report was written, a draft version of the South East Lincolnshire Local Plan has been publicised for public consultation and this plan will eventually replace the current South Holland Local Plan. Although this plan and the policies within it are at a very early stage of preparation and therefore, in line with paragraph 216 of the NPPF, carry little weight in the determination of planning applications. Policies 1, 2, 3, 5, 7 and 29 are considered to be of relevance to this proposal and reflect the general strategy and objectives of the current South Holland Local Plan in terms of ensuring new development is appropriate in its location and does not give rise to adverse impacts on the its setting, the environment or amenity of other nearby users.
8. Taking into account the additional highways comments, having considered the proposals against both the adopted and emerging policies contained within the Development Plan your Officers maintain the view that planning permission for this development should be refused for the same reasons as cited in the original report.

## **RECOMMENDATION**

That planning permission be refused for the following reason:

1. The proposed new scrapyards would be an unacceptable development in the open countryside in terms of scale and use and would have a detrimental impact on the local transport network. The applicant has not provided sufficient information to demonstrate that the development cannot be located within a defined settlement limit or would be essential in the proposed location to service a local need or cause harm to the highways infrastructure. As a result, the applicant has failed to demonstrate that the proposed development accords with the criteria and objectives of Policies SG2, SG3, SG4, SG14 and EC3 of the adopted South Holland Local Plan (2006) and Policies WLP3 and WLP21 of the Waste Local Plan. The proposal is also considered to be contrary to the objectives of Policies W3, W7, DM1, DM3 and DM14 of the Core Strategy and Development Management Policies of the emerging Lincolnshire and Waste Local Plan.

## Appendix

These are listed below and attached at the back of the report	
Appendix B	Report reference 5.1 to the Planning and Regulation Committee on 11 January 2016 relating to County Matter Application, to operate a Scrap Yard at land at The Bungalow, Oxcroft Bank, Moulton Chapel by Mr Tony El Houly
Appendix A	Committee Plan

## Background Papers

The following background papers as defined in the Local Government Act 1972 were relied upon in the writing of this report.

Document title	Where the document can be viewed
Planning Application File H23/1042/15	Lincolnshire County Council, Planning, Witham Park House, Waterside South, Lincoln
National Planning Policy Framework (2012)	The Government's website <a href="http://www.gov.uk">www.gov.uk</a>
Lincolnshire Waste Local Plan (2006)	Lincolnshire County Council's website <a href="http://www.lincolnshire.gov.uk/">http://www.lincolnshire.gov.uk/</a>
Lincolnshire Minerals and Waste Local Plan: Core Strategy and Development Management Policies (Pre-Submission Draft) January 2015	Lincolnshire County Council website <a href="http://www.lincolnshire.gov.uk">www.lincolnshire.gov.uk</a>
South Holland Local Plan (2006)	South Holland District Council's website <a href="http://www.sholland.gov.uk/">http://www.sholland.gov.uk/</a>
South East Lincolnshire Local Plan Policies (Draft) January 2016	<a href="http://southeastlincslocalplan.org/wordpress/">http://southeastlincslocalplan.org/wordpress/</a>

This report was written by Felicity Webber, who can be contacted on 01522 782070 or [dev\\_pcg@lincolnshire.gov.uk](mailto:dev_pcg@lincolnshire.gov.uk)

**Open Report on behalf of Richard Wills  
Executive Director, Environment & Economy**

Report to:	<b>Planning and Regulation Committee</b>
Date:	<b>11 January 2016</b>
Subject:	<b>County Matter Application - H23/1042/15</b>

**Summary:**

Planning permission is sought by Mr Tony El Houly to operate a Scrap Yard at land at The Bungalow, Oxcroft Bank, Moulton Chapel.

**Recommendation:**

Following consideration of the relevant development plan policies and the comments received through consultation and publicity it is recommended that planning permission be refused.

**Background**

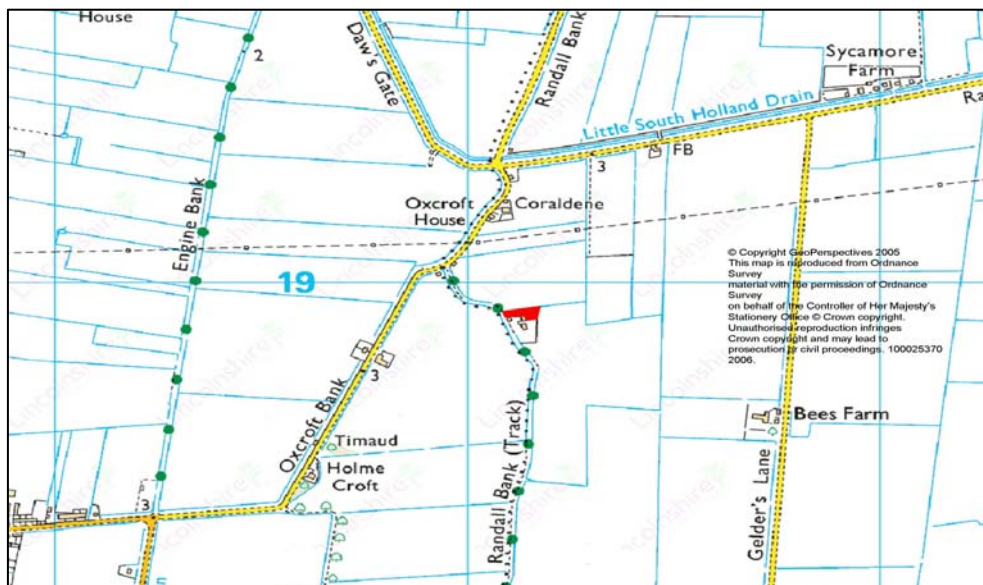
1. The site to the north of The Bungalow, Oxcroft Bank is currently used in part for the storage of pallets although there is no record of planning permission having been granted authorising this use. In 2004 a time-limited planning permission was granted by South Holland District Council (reference: H23-1252-03) which allowed the site to be used for the distribution of aggregates. A condition imposed on this permission required the land to be cleared of structures and materials associated with the business and stated that after 3 years the land would revert to uses incidental to the enjoyment of the dwelling. In 2013 planning permission was refused by South Holland District Council (reference: H23-0755-13) for the erection of two domestic dwellings within the site.

**The Application**

2. Planning permission is sought for a change of use of land at the Bungalow, Oxcroft Bank, Moulton Chapel (Plan 1) to a scrap yard comprising principally of an end of life vehicle depollution, dismantling and reuse operation. It is proposed that an open sided sheet metal building would be erected to allow work on the vehicles and an existing static caravan (Photo 1) would be used as a site office.
3. The proposed building would measure 3 metres in height to the eaves with a sheet metal pitched roof over to a height of 4 metres, the floor of the building

would be concreted to provide a sealed surface. The building would measure 10 metres in length by 8 metres wide. End of life vehicles would be brought to the site where they would be depolluted and dismantled within the new building. The operations would be as follows:

- draining/removal of the liquids into sealed containers;
  - removal of other material from the vehicles including car seats, air bags and plastics for ongoing recycling; and
  - removal of the engine and all other useable spare parts, for reuse/resale.
4. Processing and dismantling operations would be carried out by hand, using power tools where necessary and the vehicle shells would be stored in the yard before removal to an appropriate recycling facility. Vehicle parts would be stored on site in advance of being resold. Approximately four end of life vehicles a week would be processed and these would be brought to site by a flatbed truck or breakdown vehicle/tow truck. The shells would be removed by truck.
  5. The hours of operation would be 08:00 to 18:00 Monday to Friday with occasional working on Saturdays between 08:00 and 13:00. There would be no working on Sundays or Bank Holidays. The operation would employ two people.
  6. The proposal site lies within Flood Zone 2 and so the applicant has submitted a Flood Risk Assessment in support of the application. This assessment states that the proposed use of the site has been assessed against the Flood Risk Vulnerability Classification contained within the NPPF and it is considered to be a 'less vulnerable' development and so is deemed appropriate within Flood Zone 2.



Plan 1

## Site and Surroundings

7. The proposal site is located immediately to the north of a residential property known as 'The Bungalow' which also has a number of outbuildings. The southern boundary of the site is demarked by a 1.5m high wooden garden fence, a 3m high blockwork building (Photo 1) which is used for storage and leisure uses by the owner of the 'The Bungalow' and a further 3m high blockwork built shed abuts the western boundary of the site. Between the buildings is an open space giving access between the yard and The Bungalow. The eastern boundary consists of a 1.5m high closed board wooden fence backed by a mature stand of leylandii trees to a height in excess of 10m. This boundary fencing continues along the northern edge of the site, with mature deciduous trees up to a height of 8m interspersed with shrubs to a height of 2.5m.



Photo 1

Access (Photo 2) to the site is gained from the single track lane known as Randall Bank which leads to Oxcroft Bank approximately 250m to the north (Photo 3).



Photo 2



Photo 3



The sites entrance consists of substantial double gates constructed of wooden closed boards, supported by concrete block and brick built concrete gate posts. The gates are flanked by block built walls with brick courses surmounted by wooden closed board fencing to the height of the gates and backed by mature leylandii trees grown to a height in excess of 10 metres. The wider landscape comprises of flat fenland (Photo 4) which is dominated by agricultural fields together with isolated domestic and agricultural buildings. The nearest settlement is Moulton Chapel approximately 1.5 km to the south west, with the towns of Holbeach and Spalding approximately 5km to the north east and north west respectively.



Photo 4

## Main Planning Considerations

### National Guidance

8. National Planning Policy Framework (NPPF) (March 2012) sets out the Government's planning policies for England and is a material planning consideration in the determination of planning applications. In assessing and determining development proposals, Local Planning Authorities should apply the presumption in favour of sustainable development.
9. The main policies/statements set out in the NPPF which are relevant to this proposal are as follows (summarised):

Paragraph 14 - sustainable development in accordance with the development plan;

Paragraph 28 – sustainable growth and expansion in rural areas;

Paragraph 32 – Transport Statement to demonstrate safe and suitable access to the site;  
 Paragraphs 56 to 64 – design and visual appearance and place;  
 Paragraph 103 – flood risk assessment;  
 Paragraph 111 – re-using land that has been previously developed;  
 Paragraph 120 – seeks to protect general amenity;  
 Paragraph 122 – acceptable use of land and the impact of the use;  
 Paragraph 125 – impact of light pollution;  
 Paragraph 128 – historic environment;  
 Paragraphs 186 and 187 - pre-application advice on the development and by processing the application efficiently;  
 Paragraph 215 & 216 - due weight should be given to relevant policies in existing adopted plans according to their degree of consistency with the NPPF. This is of relevance to the South Holland Local Plan (2006) and Lincolnshire Waste Local Plan (2006). Given its advanced stage of preparation greater weight can also be given to policies contained within the emerging Lincolnshire Minerals and Waste Local Plan.

10. In addition to the NPPF, in March 2014 the Government published the web based Planning Practice Guidance (PPG). The PPG entitled 'Waste' also sets out the overall requirements for waste sites, including in relation to assessing the need to add to these with consideration of relevant impacts on environmental quality as well as economic potential.

11. National Planning Policy for Waste (NPPW) October 2014 sets out the national approach to waste management when determining planning applications:

Paragraph 007 – consider the likely impact on the local environment and amenity against criteria in Appendix B and ensure waste management facilities in themselves are well-designed, so as to contribute positively to the character and quality of the area in which they are located;

Paragraph 046 – Unallocated sites - where a proposal is consistent with an up to date plan there is no need to demonstrate 'need';

Appendix B – Locational Criteria. In testing the suitability of sites and area in determining planning applications, including type and scale:

- a. protection of water quality and resources and flood risk management - Considerations will include the proximity of vulnerable surface and groundwater or aquifers. The suitability of locations subject to flooding, with consequent issues relating to the management of potential risk posed to water quality from waste contamination, will also need particular care;
- c. landscape and visual impacts - Considerations will include (i) the potential for design-led solutions to produce acceptable development which respects landscape character;

- e. conserving the historic environment - Considerations will include the potential effects on the significance of heritage assets, whether designated or not, including any contribution made by their setting;
- f. traffic and access – consideration will include the suitability of the road network and the extent to which access would require reliance on local road; and
- j. noise, vibration – consideration will include the proximity of sensitive receptors. The operation of large waste management facilities in particular can produce noise affecting both the inside and outside of buildings, including the noise and vibration from goods vehicle traffic movements to and from the site. Intermittent and sustained operating noise may be a problem if not properly management.

### Local Plan Context

12. The Lincolnshire Waste Local Plan 2006 (WLP) forms part of the Development Plan and therefore, as confirmed by the NPPF, due weight should be given to relevant policies within the Plan according to their degree of consistency with the policies of the NPPF. The following policies are considered to be generally consistent with the NPPF and of relevance to this proposal:

Policy WLP1 (Objective of the Plan) states that when applying the hierarchy and assessing the need for waste facilities regard will be paid to:

- proximity principle;
- waste planning policies and proposals of neighbouring areas; and
- best available techniques and the environmental setting of the facility.

Policy WLP3 (Scrap Yards) states that planning permission will be granted for new sites for the handling, transfer or storage of scrap vehicles if they are located in areas identified in the Development Plan as suitable for General Industrial Uses (B2) and meet the criteria set out in Policy WLP21;

Policy WLP21 (Environmental Considerations) states that planning permission for waste management facilities will be granted where a number of environmental considerations are met. Of particular relevance to this application are:

- (v) Drainage, Flood Protection and Water resources – where development would not be at unacceptable risk from all sources of flooding;
- (viii) Archaeology - where the development would not adversely affect potential significant archaeological remains, with respect archaeological remains the approach will be dependent upon the significance of the potential remains;

- (xi) Dust, Odour etc - where the development including its associated traffic movements, visual impact, noise, dust, odour, litter... would not have an adverse effect on local residential amenity including air quality; and/or other local land uses;
- (xii) Transport System – where sufficient capacity is available on the local or wider road system for the traffic that is expected to be generated; and
- (xvii) Recovery of Materials – supports proposals where they contribute to the potential recovery of materials and energy via recycling, energy recovery and composting in reducing the amount of waste for final disposal.

13. South Holland Local Plan (2006) forms part of the Development Plan and therefore, as confirmed by the NPPF, due weight should be given to relevant policies within the Plan according to their degree of consistency with the policies of the NPPF. The following policies are considered to be generally consistent with the NPPF and of relevance to this proposal:

Policy SG1 (General Sustainable Development) supports proposals where the development is consistent with sustainable development and where:

- 1) the quality of life for residents is unimpaired or enhanced;
- 2) reasonable measures have been taken to conserve energy and natural resources; and
- 3) South Holland's essential character and main environmental assets are not damaged.

Policy SG2 (Distribution of Development) states that development must be located having regard to sustainable principles stating:

- 1) a sequential approach which give priority to the use of previously development land **and** building within defined settlement limits, then to greenfield land within defined settlement limits and finally to land adjacent to defined settlement limits; and
- 4) ensure that the development is acceptable in terms of traffic generation and road safety in the surrounding area.

Policy SG3 (Settlement Hierarchy) sets out the strategy for locating new development. Of relevance to this application is:

- 4) Other Rural Settlements which states that only very limited amount of new development will be permitted and only in exceptional circumstances to meet demonstrated local needs and location is well related to the built up area of settlement.

Policy SG4 (Development in the Countryside) where development is essential in the proposed location and cannot reasonably be accommodated within defined settlement limits where:

- 1) the need for the development in that location outweighs its impact; and
- 2) no other site or solution exists to accommodate the proposed development.

Policy SG9 (Development and Flood Risk) states that in areas of flood risk planning permission will only be granted where a flood risk assessment has been carried out and proposals shall, where necessary, include details of measures designed to reduce the risk and consequences of flooding. Proposals will need to demonstrate how the proposed development will be defended from flooding for its proposed life, taking into account proposed mitigation measures. Built development that would be at high risk of flooding, or which may be subject to rapid inundation, will not normally be permitted unless exceptionally required for operational reasons.

Policy SG13 (Pollution and Contamination) states planning permission will only be permitted for development proposals which do not cause unacceptable levels of pollution of the surrounding area by noise, light, toxic or offensive odour, airborne pollutants or by the release of waste products and provide, as necessary, appropriate treatment of land to clean up pollution and contamination.

Policy SG14 (Design and Layout of New Development) states new development should be designed to ensure that it makes a positive contribution to the visual quality of its surroundings taking into account the following matters:

- 5) the scale, form and height;
- 7) the effect of the development on the amenity of nearby residents in terms of general disturbance; and
- 9) the layout of vehicular access, parking and manoeuvring facilities.

Policy EC3 (Existing Employment Areas/Premises) states that proposals for new development, redevelopment and changes of use for employment uses will be permitted provided they are acceptable in terms of environmental impact, the level of traffic movement and intrusion into the open countryside.

14. The Core Strategy and Development Management Policies (Pre-submission Draft) of the emerging Lincolnshire Minerals and Waste Local Plan was examined in October 2015 and the final draft consultation will run for a period of six weeks from November 2015. In line with paragraph 216 of the NPPF, the policies contained within this document can be given greater weight in the determination of planning applications and the key policies of relevance in this case are:

Policy W3 (Spatial Strategy for New Waste Facilities) states that proposals for new waste facilities, including extensions to existing waste facilities, will be permitted in and around the following main urban areas as indicated on the key diagram subject to the criteria of Policy W4. Proposals for new waste facilities, outside the above areas will only be permitted where they are:

- biological treatment of waste (Policy W5);
- landfilling of waste (Policy W6);
- small scale waste facilities (Policy W7); and
- treatment of waste water and sewage (Policy W9).

Policy W7 (Small Scale Waste Facilities) proposes that small scale waste facilities, including small extensions to existing waste facilities, outside of those areas specified in Policy W3 provided that:

- there is a proven need to locate such a facility outside of the main urban areas; and
- the proposals accord with all relevant Development Management Policies set out in the Plan; and
- the facility would be well located to the arisings of the waste it would manage; and
- they would be located on land which constitutes previously developed and/or contaminated land, existing or planned industrial/employment land, or redundant agricultural and forestry buildings and their curtilages.

Proposals must accord with all relevant Development Management Policies set out in the Plan. The most relevant to this proposal are as follows:

Policy DM1 (Presumption in Favour of Sustainable Development) states that County Council will take a positive approach that reflects the presumption in favour of sustainable development and to secure development that improves the economic and environmental condition in the area. Planning applications that accord with the policies in this Local Plan will be approved without delay, unless material considerations indicate otherwise.

Policy DM3 (Quality of Life and Amenity) planning permission will be granted for mineral and waste development provided that it does not generate unacceptable adverse impacts arising from amongst other factors visual intrusion and traffic. In addition the policy states that in respect of waste, development is well designed and contributes positively to the character and quality of the area in which it is to be located. Where unacceptable impacts are identified, which cannot be addressed through mitigation measures, planning permission will be refused.

Policy DM14 (Transport by Road) states that planning permission will be granted for waste development involving transport by road where the highway network is of, or will be made up to, an appropriate standard for use by the traffic generated by the development; and arrangements for site access and traffic generated by the development would not have an unacceptable impact on highway safety, free flow of traffic, residential amenity or the environment.

## Results of Consultation and Publicity

15. Local County Council Member, Councillor R Fairman and the Environmental Health Officer (South Holland District Council) were consulted on 6 November 2015 but had not responded at the time that this report was prepared.

(a) Whaplode Parish Council – have no objections.

(b) Moulton Parish Council - has concerns regarding the access routes to the proposed site being unsuitable, citing Randall Bank being a 'green lane' and Oxcroft Bank as being totally unsuitable for large HGV's. They have commented that the highway is narrow and in a poor state of repair and not deemed by County Highways Officer as 'high priority' for maintenance. The southernmost corner along Oxcroft Bank is also a blind corner and it is detrimental to highway safety.

It is further stated that traffic accessing this proposed site would ultimately have to travel through the village of Moulton Chapel along Roman Road which is the main residential area of the village and runs through the centre of the village. The roads are being carved up by large vehicles which are totally unsuitable and it is believed that further flatbed trucks will simply add to the ongoing issues. Whilst the application states that there will be no more than four vehicles per week this will in fact create four travelling in and four travelling out in addition to the vehicles collecting the scrap twice a week. The Parish Council believes that further heavy traffic would impact on local amenities.

In addition to the highways issues raised, the Parish Council are also extremely concerned about the potential of pollution to the water resources and that this could have a catastrophic effect on drainage, agricultural land nearby and livestock. Whilst the Environment Agency would be required to regulate the proposed operation there is huge concern that vehicle liquids could easily seep into the soil and this would be totally inappropriate for our open countryside.

Overall, the Parish Council do not believe that this proposed site is in accordance with the County Waste Local Plan and is totally unsuitable for this type of industrial use. In addition to this it was felt that the visual impact would undoubtedly have an adverse effect on the local landscape.

(c) Environment Agency –have no objection to the application but wish to provide the following informative comments:

An environmental permit will be required to carry out the proposed activity. No vehicles intended for breaking can be accepted at the site before a permit is granted and the site infrastructure is satisfactory. Our local Waste team has had preliminary discussions with the

applicant regarding the need for a permit. Further pre-application contact is expected.

- (d) Highways Officer (Lincolnshire County Council) – recommends that planning permission be refused. The Highways Officer notes the low number of vehicle movements proposed by the applicant, however, it is stated that Randall Bank is inadequate in terms of its width and construction to serve the proposed development. The road is an un-surfaced public highway (not a private road as indicated on the submitted details) which is single-track only. Consequently, there is generally insufficient width to permit vehicles to pass one another and the additional vehicular activity likely to be generated by the proposed development would result in an increased incidence of movements along this road. The manoeuvring of passing vehicles would also lead to vehicles overrunning the edge of the narrow, un-surfaced carriageway and adjoining verge thereby causing an unacceptable level of damage to both as well as possible structural failure of the carriageway. Such conditions are contrary to the interests of safety and free passage of the public within the public highway.
- (e) Historic Environment Officer (Lincolnshire County Council) – has recommended that further information be provided from the applicant, in the form of an archaeological evaluation, in order to provide the local planning authority with sufficient information to enable it to make a reasoned decision on this planning application. This evaluation should consist of trial excavation as cropmarks surrounding the site show that this site forms part of an extensive, probably late Iron Age/Roman landscape, and cropmarks are particularly dense in this area.

This site has not been subject to pre-determination evaluation and the site-specific archaeological potential has not been determined. It is therefore recommended that the planning application be withdrawn until information is provided on the nature and depth of the archaeology and of the proposed ground impact.

- (f) Lincolnshire Fire & Rescue – has objected and recommended the following measures in order to remove the objection (summarised):

'The installation of a fire hydrant to British Standard in respect of this application, within 90 metres of the site'.

- (g) Local County Council Member, Councillor N Pepper – who is a member of the Planning and Regulation Committee was consulted on the application but reserves his position until the date of the meeting.

16. The application has been publicised by notice posted at the site and in the local press (Spalding Guardian) on Thursday 12 November 2015 and two letters of notification were sent to the nearest neighbouring residents. No responses had been received at the time that this report was written.



## District Council's Recommendations

17. South Holland District Council – objects to the application as it is considered that the proposal will create a discordant feature in the open countryside and will have a detrimental impact on the private road leading to the proposed business.

## Conclusions

18. The main issues to consider in relation to this application are whether the proposed operations are acceptable within this location and whether they can be carried out without having any significant adverse environmental or amenity impacts.

## Waste Policy Context

19. The proposed development would provide a means to de-pollute and process unwanted waste/scrap vehicles in order to salvage and recover re-useable and saleable parts and equipment prior to the car shells being transferred and transported onwards for further processing and recycling at other facilities. Although small scale the development would, nevertheless, contribute towards achieving the objectives of NPPW and Waste Local Plan Policies WLP1 and WLP21(xvii) by providing a means to assist in the recycling of scrap and, through the stripping and salvaging of vehicle parts, aid in the recovery and re-use of wastes thereby moving the management of these wastes up the waste hierarchy.
20. Whilst the proposed development would therefore accord with the wider principles and objectives of the waste local plan and waste hierarchy, it is also necessary to consider whether the development would be acceptable in terms of its location and could be carried out without having any adverse environmental or amenity impacts.

## Locational Considerations

21. In terms of location, Policy SG2 of the South Holland Local Plan requires developments to be located with regard to sustainable principles and states that given a sequential approach, priority should be given to previously developed land and buildings within defined settlement limits (as defined in Policy SG3), then to greenfield land within defined settlement limits and finally to land adjacent to defined settlement limits. Policy W3 of the emerging Core Strategy similarly reflects the spatial approach advocated by Policy SG2 by seeking to primarily direct new waste management facilities in and around main urban areas. Policy WLP3 of the Lincolnshire Waste Local Plan (2006) relates specifically to scrap yards and identifies sites with existing General Industrial Uses, specifically Use Class B2, as being suitable for new scrap yards and emerging Policy W7 states that proposals for new waste facilities outside of main urban areas will only be supported where they are small in scale and that preference will be given to sites that are previously developed, existing or planned industrial/employment land

and buildings or land already in waste management use, or site allocated in the Site Locations Document.

22. In this instance the proposal site is located outside of the defined settlement boundary and limits of the nearest village of Moulton Chapel and therefore is not located within the defined settlement of an established urban area or other such smaller settlement as advocated by Policy SG2 and SG3 and emerging Policy W3. By virtue of a condition imposed by a former permission, the proposal site comprises of land which is classed as being incidental to the enjoyment of a domestic dwelling (i.e. The Bungalow) and therefore does not have planning permission for any industrial or commercial use. As a result, the proposed location and uses on this site would also not accord with the locational criteria cited by Policy WLP3 or the spatial approach advocated by emerging Policy W3.
23. The proposal site itself therefore falls within the open countryside and whilst emerging Policy W7 does lend support to the establishment of small scale waste management facilities outside of urban areas these will only be supported where there is a proven need to locate such a facility outside the main urban areas (also reflected by Policy SG4) and only where the facility is well located to the arisings of the waste and where they are located on previously developed land, existing or planned industrial/employment land and buildings or land already in waste management use, or site allocated in the Site Locations Document which is in accord with Policy EC3 of South Holland Local Plan insofar as the site is not allocated as being within an existing Employment Area/Premises. The applicant has not indicated the origin of end of life vehicles and as a consequence has not demonstrated a need for a scrap yard in this locality. Consequently, given the permitted uses of the site and its location, in this instance the proposal fails to meet any of the specified locational criteria of the cited policies within the adopted South Holland Local Plan or Lincolnshire Waste Local Plan and is not considered to meet the criteria set out in the Policy W7 of the emerging Core Strategy.

## Environmental & Amenity Considerations

### Flood Risk

24. The site a falls within Flood Zone 2 and the NPPF, South Holland Local Plan Policy SG9 and Waste Local Plan Policy WLP21 all seek to ensure that developments are appropriately located so as not to be at risk of flooding or to give rise to flooding and where they are proposed in flood risk areas to include measures to address and reduce such risk.
25. The proposal site lies within Flood Zone 2 as shown on the Environment Agency's indicative Flood Zone Maps and is therefore categorised as being in an area at low to medium risk and probability of flooding from main rivers or the sea. However, the proposed development in this application are categorised by the Planning Policy Guidance Table 2 Flood Risk Vulnerability Classification as being 'less vulnerable' form of development in

terms of their flood risk vulnerability and therefore this use is considered appropriate form of development for this flood zone and therefore meets this criteria of Policy WLP21(v).

### Historic Environment

26. Lincolnshire County Council's Historic Environment Officer has identified the potential for archaeology within the site and therefore has recommended that an evaluation of the site be carried out, including a trial excavations, in order to determine the significance of any heritage assets that may be potentially affected by the proposal. Whilst it is accepted that the proposed development would result in only limited excavations (e.g. associated with the construction of the new building) the crop markings in the immediate vicinity of the site are particularly dense and therefore features of potential archaeological interest could lie at depth and therefore be adversely affected. The Historic Environment Officer has consequently recommended that the applicant withdraw the application with a view to discussing the extent of evaluation needed to determine the significance of any heritage asset. As no such evaluation has been carried out, at this time, the applicant has failed to demonstrate that the development would not have an adverse impact on potential archaeology and therefore Officers cannot conclusively confirm that the development would accord with Policy WLP21(viii).

### Highways

27. The Highway's Officer identified Randall Bank as Public Highway and inadequate in terms of its width and construction to serve the proposed development. The development, although small in scale, would result in an increase of vehicular movements including HCV transportation and given the nature of the public highway (Randall Bank), being both un-surfaced and single track, the Highways Officer has recommended that the application be refused as the traffic associated with the proposal would have unacceptable impact on the highway. As a result, the proposed development would conflict with the aims and objectives of WLP21(xi) and (xii) in that it would have an adverse effect on local land uses and would exceed the capacity of the local road system. The proposal is also considered to fail to accord with emerging Policies DM1, DM3 and DM14 insofar as it is not considered to be in a sustainable location, would not improve the environmental condition of the area and would be likely to cause degradation to the local highway network and the free flow of traffic.

## **RECOMMENDATIONS**

That planning permission for the following application reference H23/1042/15 be refused for the following reason:

1. The proposed new scrapyards would be an unacceptable development in the open countryside in terms of scale and use and would have a detrimental

impact on the local transport network. The applicant has not provided sufficient information to demonstrate that the development cannot be located within a defined settlement limit or would be essential in the proposed location to service a local need or cause harm to the highways infrastructure. As a result, the applicant has failed to demonstrate that the proposed development accords with the criteria and objectives of Policies SG2, SG3, SG4, SG14 and EC3 of the adopted South Holland Local Plan (2006) and Policies WLP3 and WLP21 of the Waste Local Plan. The proposal is also considered to be contrary to the objectives of policies W3, W7, DM1, DM3 and DM14 of the Core Strategy and Development Management Policies of the emerging Lincolnshire and Waste Local Plan.

## Appendix

These are listed below and attached at the back of the report	
Appendix A	Committee Plan

## Background Papers

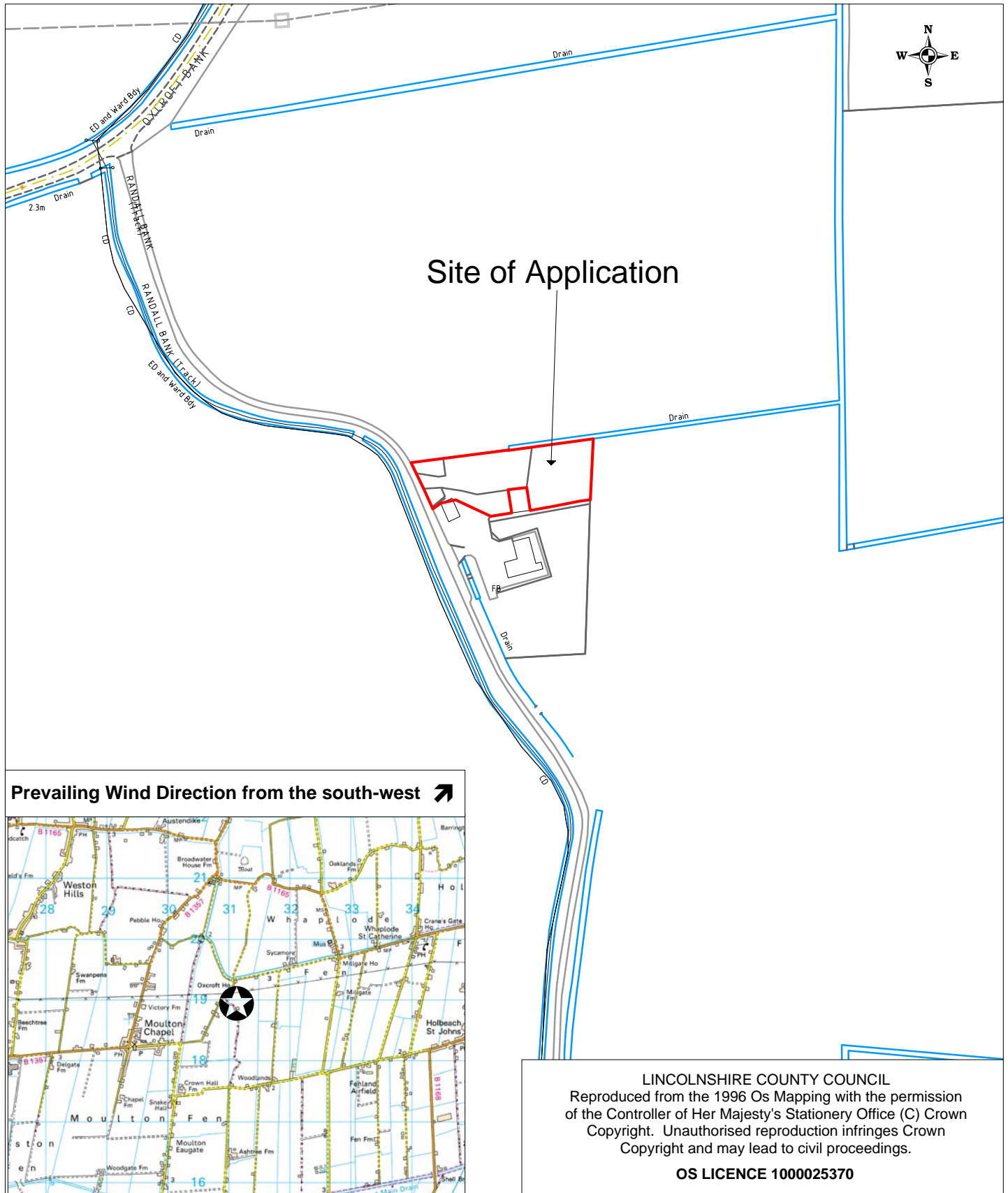
The following background papers as defined in the Local Government Act 1972 were relied upon in the writing of this report.

Document title	Where the document can be viewed
Planning Application File H23/1042/15	Lincolnshire County Council, Planning, Witham Park House, Waterside South, Lincoln
National Planning Policy Framework (2012)	The Government's website <a href="http://www.gov.uk">www.gov.uk</a>
Lincolnshire Waste Local Plan (2006)	Lincolnshire County Council's website <a href="http://www.lincolnshire.gov.uk/">http://www.lincolnshire.gov.uk/</a>
South Holland Local Plan (2006)	South Holland District Council's website <a href="http://www.sholland.gov.uk/">http://www.sholland.gov.uk/</a>

This report was written by Felicity Webber, who can be contacted on 01522 782070 or [dev\\_pcg@lincolnshire.gov.uk](mailto:dev_pcg@lincolnshire.gov.uk)

# LINCOLNSHIRE COUNTY COUNCIL Appendix A

## PLANNING AND REGULATION COMMITTEE 11 JANUARY 2016



**Location:**  
 Land at The Bungalow,  
 off Oxcroft Bank  
 Moulton Chapel

**Description:**  
 To operate a Scrap Yard

**Application No:** H23/1042/15  
**Scale:** 1:2500

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**Open Report on behalf of Richard Wills  
Executive Director, Environment & Economy**

Report to:	<b>Planning and Regulation Committee</b>
Date:	<b>15 February 2016</b>
Subject:	<b>County Council Development - H16/1135/15</b>

**Summary:**

Planning permission is sought for the construction of a temporary vehicular site construction access with subsequent conversion to a permanent pedestrian access at Balmoral Avenue Play Park, Balmoral Avenue, Spalding.

The proposed access and footpath would provide access to and from Balmoral Avenue to the Spalding Parish Church of England School which lies adjacent to the Play Park. In the first instance, the access route would function as a temporary access to be used by contractors associated with the construction of new extensions and redevelopment works at the school which were granted planning permission in November 2015 (subject of planning permission H16/0898/15). Following the completion of these construction works the access route would be upgraded and retained to provide a permanent formal pedestrian access point to the school from the residential area surrounding Balmoral Avenue.

**Recommendation:**

Following consideration of the relevant development plan policies and the comments received through consultation and publicity it is recommended that conditional planning permission be granted.

**Background**

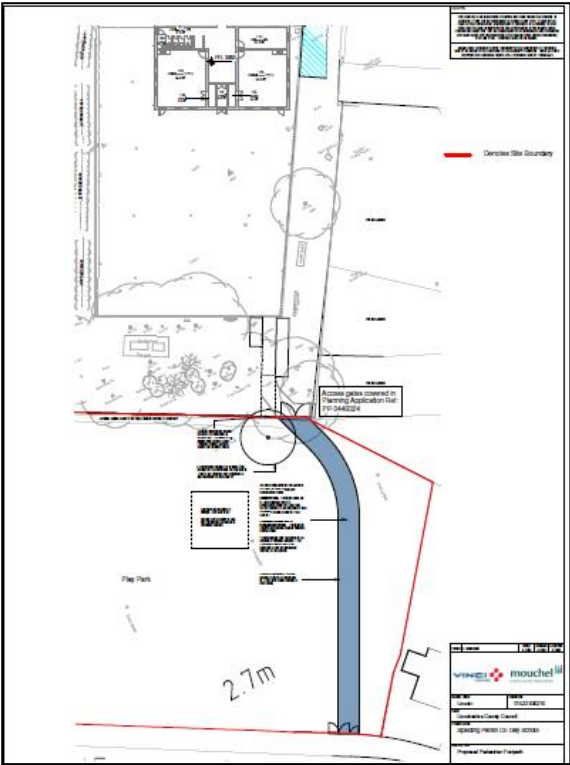
1. Planning permission (ref: H16/0898/15) was granted on 27 November 2015 to extend the Spalding Parish Church of England School to create six additional teaching classrooms, a library space, small group rooms, staff spaces and WCs, school hall extension and store rooms, kitchen and associated facilities, circulation spaces and new pedestrian accesses. Revisions to internal pathways within the school site were proposed as part of that development with the intention of linking up to a new pedestrian access which is proposed to be created outside of the school site and which would provide a link to Balmoral Avenue.
2. This report deals with that proposed new access/footpath which, in the first instance, would act as a temporary vehicular site construction access to be used in association with Phase 1 of the redevelopment and construction

works approved by permission H16/0898/15. Once the the Phase 1 construction works have been completed this route would then be converted to provide a permanent pedestrian footpath to and from Balmoral Avenue.

The Application

- 3. Planning permission is sought to construct a temporary vehicular site construction access with subsequent conversion to a permanent pedestrian access across Balmoral Avenue Play Park, Balmoral Avenue, Spalding.
- 4. The proposed route/footpath would consist of a 3m wide hard surfaced access from Balmoral Avenue across the existing play park and linking to the south-eastern corner of the adjoining school site. The total length of the route is 45m of which the first 17m crosses an existing concrete hardstanding. In the first instance, this route would function as a temporary access to be used by contractors associated with the construction of the new extensions at the school (subject of permission H16/0898/15). The provision of an access in this location would ensure that construction traffic is kept away from the main vehicular route of Clay Lake which can be very busy at school drop off and pick up times. During this temporary period the access route would be made up of materials such as hardcore which are of sufficient strength to accommodate vehicles and would be edged using concrete pin kerbs. A temporary 2m high Heras fence would also be erected to provide physical separation between the route and the adjoining play park.

Proposed Access/Footpath Location



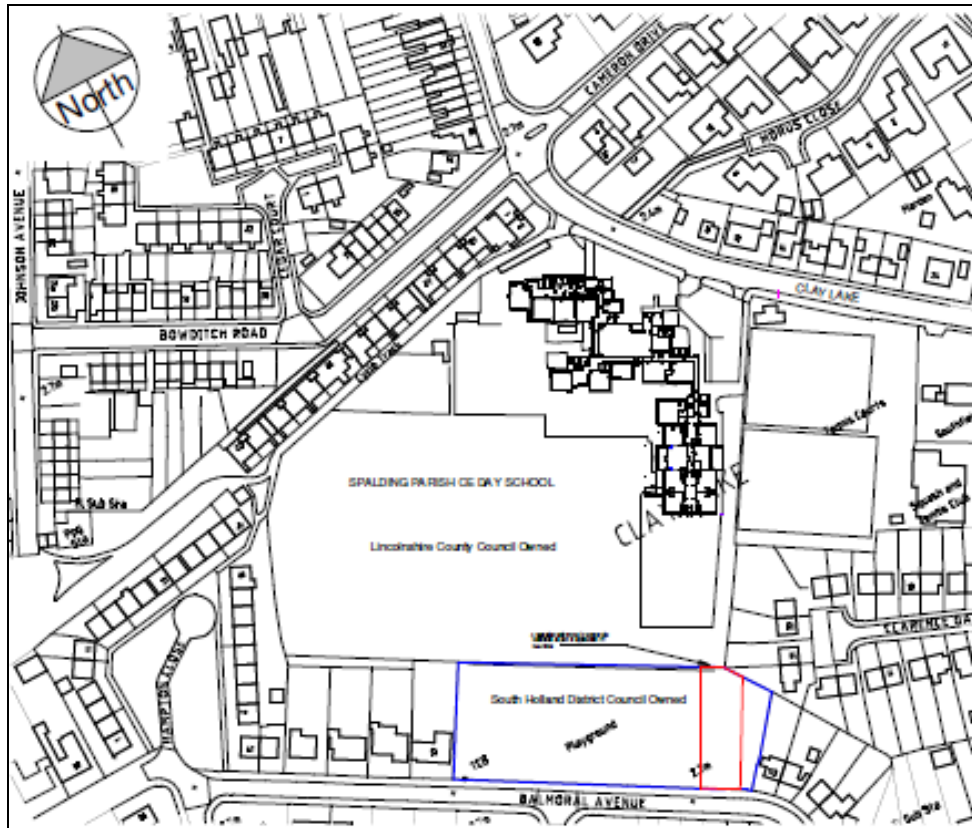


- Following completion of the school redevelopment and construction works the access route would be upgraded and finished with a permeable tarmac finish so as to provide a permanent pedestrian access route to the school. As previously agreed with the District Council thermoplastic play linings would also be added to the path (e.g. hopscotch markings) to allow it to be used as an informal hardplay area.

#### Site and Surroundings

- Spalding Parish Church of England School is located off Clay Lake and is set within an established residential area with residential properties lying adjacent to the school's north-west, south-west and south-east boundaries. Residential properties lie on the opposite side of Clay Lake and there is a private tennis and squash club adjoining the school's eastern boundary. Pedestrian and vehicular access to the school site is currently gained via entrances situated along Clay Lake with existing staff car parking being provided by two areas located at the north and east of the school. The proposed new access/footpath would extend from the south-eastern corner of the school site and cross the public playground that lies to the south of the school creating a new link to and from Balmoral Avenue. There are residential properties situated along Balmoral Drive which lie directly adjacent to and opposite this playground.

Site Location



## Main Planning Considerations

### National Guidance

7. National Planning Policy Framework (NPPF) (March 2012) sets out the Government's planning policies for England and is a material planning consideration in the determination of planning applications. In assessing and determining development proposals, Local Planning Authorities should apply the presumption in favour of sustainable development. The main policies/statements set out in the NPPF which are relevant to this proposal are as follows (summarised):

Paragraph 14 (Sustainable Development) states that there is a presumption in favour of sustainable development and therefore proposals that accord with the development plan should be approved (unless material considerations indicate otherwise).

Paragraph 17 (Core Planning Principles) sets out 12 core land-use planning principles that should underpin both plan-making and decision-taking.

Paragraphs 32 and 35 (Sustainable Transport) supports sustainable modes of transport and securing safe and suitable access to developments.

Paragraph 69 (Access) promotes safe and accessible developments, including clear and legible pedestrian access routes.

Paragraphs 74 and 75 (Open Space, Rights of Way and Access) states that existing open space, sports and recreational land should be protected and supports the provision of better facilities or links to public rights of way and enhanced access.

Paragraph 103 (Flood Risk) seeks to ensure that flood risk is not increased on or off site as a result of development.

Paragraphs 186 and 187 (Decision Making) state that local planning authorities should approach decision-taking in a positive way to foster the delivery of sustainable development and should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicant to secure developments that improve the economic, social and environmental conditions in the area.

Paragraph 206 (Planning Conditions) 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.

Paragraphs 215 and 216 (Local Plans) state that 12 months after the publication of the NPPF (March 2012) due weight should be given to relevant policies in existing plans according to their degree of consistency

with the NPPF (the closer the policies in the plan to the policies in the NPPF the greater the weight that may be given). This is of relevance to the South Holland Local Plan 2006 and emerging South East Lincolnshire Local Plan (Draft – January 2016).

### Adopted Local Plan Context

8. South Holland Local Plan 2006 (SHLP) – the following policies are relevant to this proposal and, as confirmed by the NPPF, should be given due weight in the determination of this application:

Policy SG1 (General Sustainable Development) supports proposals that are consistent with the principles of sustainable development and where the quality of life for residents is unimpaired or enhanced; where reasonable measures have been taken to conserve energy and natural resources, and; where the essential character and main environmental assets are not damaged.

Policy SG9 (Development and Flood Risk) states that planning permission will only be granted for proposals which, where necessary, include details of measures designed to reduce the risk and consequences of flooding.

Policy SG14 (Design and Layout of New Development) sets out a range of criteria that need to be taken into consideration in the determination of applications. These include the effect of development on the amenity of nearby residents in terms of noise, smell, general disturbance, overlooking and loss of light and ensuring that proposals would not have an adverse effect on the character and appearance of the locality.

Policy SG15 (Facilities for Road Users, Pedestrians and Cyclists) supports proposals which provide safe and convenient access to all users within a development and states that all new and improved roads, cycleways and footpaths shall reflect through layout and design the anticipated nature of future traffic and the character of areas to be served.

Policy SG17 (Protection of Residential Amenity) states that planning permission will be granted for development which would not cause material harm to residential amenity. Of relevance to this particular proposal is the potential noise nuisance arising from the development including that associated with vehicular activity.

Policy SG19 (Protection of Open Spaces) states that the amenity of open spaces within settlements will be assessed when proposals are received for their development. Where such open spaces make a valuable contribution to the character, appearance and historic development pattern of the settlement, development will not be permitted.

Policy LT2 (Safeguarding Open Space for Sport, Recreation and Leisure) states that development which would result in the loss of public open space, parks or playing fields will only be permitted provided that alternative

provision of equivalent community benefit is made in the locality; or there is an excess of provision taking into account the long term recreation and amenity value of such provision; or sport, recreation and leisure facilities can be retained and enhanced through the redevelopment of a small part of the site.

Policy LT3 (Recreational Routes, Public Rights of Way, Disused Railway Lines) seeks to protect and enhance existing rights of way and where new or improved public accesses and rights of way are proposed these be accessible to all sections of society, including wheelchair users and those with mobility difficulties.

### Emerging Local Plan Context

9. Work has begun on the preparation of the South East Lincolnshire Local Plan which will eventually replace the currently adopted Boston Borough Local Plan 1999 and South Holland Local Plan 2006. Public consultation on a draft plan is currently being undertaken (between 8 January and 19 February 2016), however, given its early stage of preparation, in line with paragraph 216 of the NPPF, the policies contained within this document currently carry very little weight in the determination of planning applications. Notwithstanding this the key draft policies that are of relevance in this case are as follows:

Policy 1 (Presumption in Favour of Sustainable Development) supports proposals that are consistent with the principles of sustainable development.

Policy 3 (Development Management) sets out a range of criteria that need to be taken into consideration in the determination of applications.

Policy 29 (Design of New Development) seeks to ensure that all developments are appropriate in terms of their design and layout and maximise opportunities for improving the character and quality of an area.

Policy 30 (Promoting Safe, Accessible Open Space, Sport & Recreational facilities) promotes the protection and enhancement of existing public rights of way and the creation of new links to the rights of way network as well as environments which are accessible to all sections of the community and facilitate walking, cycling and public transport use.

Policy 31 (Delivering a More Sustainable Transport Network) supports the promotion and management of the existing transport network and the provision of sustainable forms of travel. For cycling, walking and other sustainable transport this will be by protecting existing footpaths, cycle routes and bridleways from development and improving connectivity, and supporting the development of new multi-user routes to create a more coherent walking, cycling and riding network for sustainable travel and/recreation.

## Results of Consultation and Publicity

10. (a) Local County Council Member, Councillor A J Jesson - has commented that he is against the proposal for the following reasons:

- the play park mentioned already has a permanent pedestrian footway into the school which severs the small play park in two. Any further reduction in size would prevent children playing football on the current pitch;
- if vehicles were permitted access at this location then would children not be permitted to use the park? This would be unacceptable as there are already limited places for them to play. If the park size were to be reduced the school should give up some ground so that the park remains functional;
- due to parents using this entrance for access and parking in Balmoral Avenue, lorries would have difficulty using the entrance.

(b) Highways and Lead Local Flood Authority - has commented that the proposed hard-surfaced (but permeable) permanent footpath would encourage more parents to routinely access the school from Balmoral Avenue and therefore reduce the congestion at the main school gate onto Clay Lake, where there is more passing traffic and therefore more potential for conflict.

The proposed temporary construction access would use the existing gated entrance to the playing field that is used by ground maintenance vehicles. The present good condition of the existing vehicle access crossing over the footway here may be an indication that it has been constructed to a sufficiently high specification to be suitable to carry the loads placed upon it by construction and delivery vehicles for the duration of the construction work at the school. However, should that not be the case, and the vehicle access crossing did begin to fail, the Highway Authority would expect the Applicant to cover the cost of both on-going repairs and permanent repair at the end of the construction phase. The management of this would be covered by existing highway legislation and therefore, it would not be necessary for this to be addressed by means of the planning process.

Therefore, the proposed development is considered to be acceptable and accordingly do not object to this planning application.

(c) Sport England – has no comments to make on the proposals as the proposed development does not fall within either their statutory or non-statutory remit. It has advised that if the development involves the loss of any sports facility then consideration should be given to whether the proposal accords with the NPPF (para. 74 specifically).

11. The application has been publicised by way of notices posted at the site and the nearest 10 residential properties to the proposed footpath have been notified of the application by letter. A representation has been from a local

resident which raises concerns about the proposal and a summary of the issues/concerns raised are set out below:

- there are existing problems of traffic congestion and inconsiderate parking in the area when parents drop/collect their children from school. The Travel Plan should therefore be adhered to with immediate effect and parents educated in order to prevent this happening as a more substantial pedestrian access will only serve to result in more parents dropping children off by car;
- the entrance to the play park is located on a bend and so vehicles accessing the play park would pose a danger and health and safety risk to users especially during busy periods. Residents living close to the same bend have previously been refused permission to install dropped kerbs outside of their properties because of their proximity to this bend;
- measures should be employed to make it difficult to park close to the play park and school including a 20mph speed limit, parking restrictions and 'Keep Clear' markings outside of the play park;
- a site visit should be carried out at the relevant school start and finish times before any decision is made on this application.

#### District Council's Observations

12. South Holland District Council has no objection in principle to the improvement of school facilities but are aware that there is a concern that the development may result in additional school traffic being experienced on Balmoral Avenue and therefore would ask that the representations submitted by neighbours and third parties are taken into account in the determination of the application.

#### Conclusions

13. The proposed development would provide an alternative point of access to and from the school and help to alleviate pressure around the school's main entrance which is on Clay Lake. During its use as a temporary construction access, contractors and vehicles would be able to access the school from Balmoral Avenue and therefore help to reduce any conflict between such traffic and those of parents and children using Clay Lake which at times can get heavily congested. Although it is accepted children and parents are likely to still approach the school from Balmoral Avenue during this period, and similarly use the play park outside of school hours, the temporary fencing to be erected alongside the route would provide adequate physical separation and protection to ensure the safety of pedestrians and users is maintained. Furthermore, whilst objections have been raised from a local resident and Councillor Jesson about the location of the proposed access/footpath on Balmoral Avenue, the Highways Officer is satisfied that its position and use, especially by vehicles during the temporary construction period, would not pose a risk from a highway safety perspective and once it has been upgraded to a permanent footpath could also encourage more parents and children to walk to school. It should be noted that the use of

this access for vehicles would only be for a short duration and not go beyond September 2016.

14. In terms of the actual route of the access/footpath, a small area of land would be lost as consequence of its construction however despite the concerns raised by Councillor Jesson the land affected does not form part of any statutorily protected playing field or formal play space. No objections have been raised by Sport England or the District Council (who are also the landowners) and the footpath would have a permeable finish so replicate the existing natural surface and therefore minimise surface water run-off and the potential for any incidental flooding off-site. The final footpath would also have thermoplastic markings painted on its surface which means it would also provide an additional informal play area supporting the existing play equipment already present within the play park and given its position within the playpark, I am satisfied that the path itself, as well as users of it during both the temporary and permanent phases, would not have an unacceptable adverse impact on the amenity of any nearby residents.
15. Consequently, and on balance, I am satisfied that the proposal complies with the aims and objectives of the NPPF and the identified policies contained within the adopted South Holland Local Plan 2006. The proposals also do not conflict with the approach or criteria as set out in the emerging policies of the South East Lincolnshire Local Plan (Draft - January 2016) and there are no material considerations which would dictate that planning permission should not be granted.

## **RECOMMENDATIONS**

That planning permission be granted subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission. Written notification of the date of commencement shall be sent to the County Planning Authority within seven days of such commencement.
2. The development hereby permitted shall be carried out in strict accordance with the details contained within the Planning Application Form, Design & Access Statement and Drawing No.1067063-MOU-XX-00-DR-A-(04)-0002 'Site Location' and Drawing No.1067063-MOU-XX-00-DR-A-(94)-1101 'Proposed Pedestrian Footpath' (date stamped received 24 November 2015).

### Reasons

1. To comply with Section 91 of the Town and Country Planning Act 1990.
2. To ensure that the development is carried out in an acceptable manner and for the avoidance of doubt as to the development that is permitted.

## Informative

The County Planning Authority has worked with the applicant in a positive and proactive manner by providing pre-application advice on the development and by processing the application efficiently so as to prevent any unnecessary delay. This approach ensures the application is handled in a positive way to foster the delivery of sustainable development and is consistent with the requirements of paragraphs 186 and 187 of the National Planning Policy Framework.

## Appendix

These are listed below and attached at the back of the report	
Appendix A	Committee Plan

## Background Papers

The following background papers as defined in the Local Government Act 1972 were relied upon in the writing of this report.

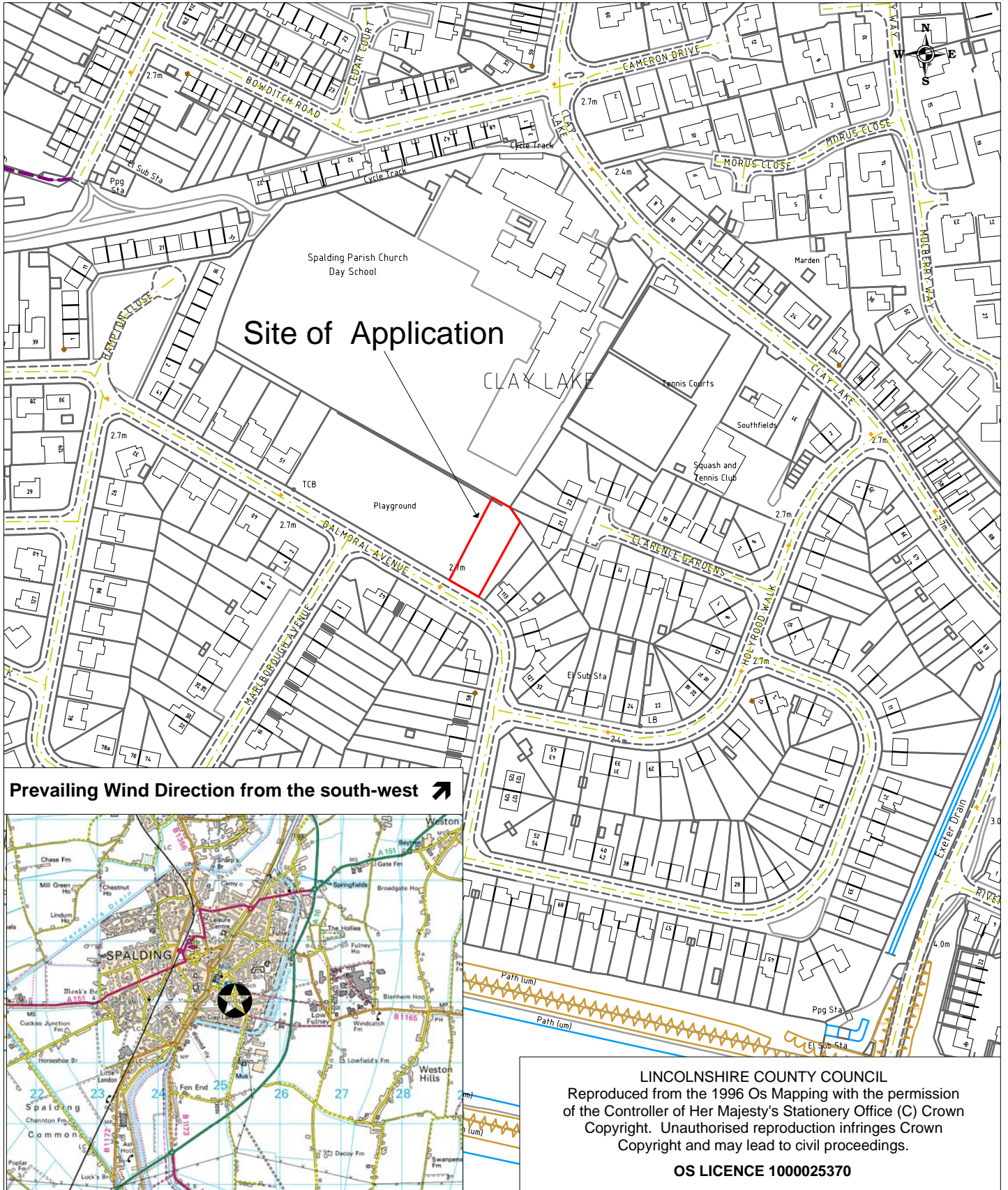
Document title	Where the document can be viewed
Planning Application Files H16/1135/15 H16/0898/15	Lincolnshire County Council, Planning, Witham Park House, Waterside South, Lincoln
National Planning Policy Framework (2012)	Communities and Local Government website <a href="http://www.gov.uk">www.gov.uk</a>
South Holland Local Plan 2006	South Holland District Council website <a href="http://www.sholland.gov.uk">www.sholland.gov.uk</a>

This report was written by Marc Willis, who can be contacted on 01522 782070 or [dev\\_pcg@lincolnshire.gov.uk](mailto:dev_pcg@lincolnshire.gov.uk)



LINCOLNSHIRE COUNTY COUNCIL

PLANNING AND REGULATION COMMITTEE 15 FEBRUARY 2016



Prevailing Wind Direction from the south-west ↗

**Location:**

Balmoral Avenue Play Park  
 Balmoral Avenue  
 Spalding

**Application No:** H16/1135/15

**Scale:** 1:2500

**Description:**

Proposed temporary vehicular site construction access with subsequent conversion to a permanent pedestrian access to the school

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