



County Offices
Newland
Lincoln
LN1 1YL

24 March 2017

Planning and Regulation Committee

A meeting of the Planning and Regulation Committee will be held on **Monday, 3 April 2017 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, 3 APRIL 2017**

Item	Title	Pages
1.	Apologies/replacement members	
2.	Declarations of Members' Interests	
3.	Minutes of the previous meeting of the Planning and Regulation Committee held on 6 March 2017	5 - 12
4.	Minutes of the site visit to Cemex UK Operations Ltd, West Deeping held on 10 March 2017	13 - 14
5.	County Matter Applications	
5.1	Supplementary Report - To continue to extract sand and gravel without complying with conditions 2 (Details and Plans), condition 10 (Plant and Machinery) and condition 11 (site layout) imposed by permission S81/1588/89 (as amended by permissions S81/0787/01 and S81/1112/07) together with the discharge of condition 2 (Additional embankments) and condition 3 (vehicular access) of S81/1112/07. The proposal is for an amended location and amendments to the layout and design of the approved aggregate processing plant and for ancillary offices and a bagging plant within the site. A new location is also proposed for the silt lagoon and amended freshwater lagoon. Associated minor changes are proposed to the method of working and progressive restoration scheme including the creation of a conservation wetland and amended details relating to the site access - Cemex UK Operations Ltd (Agent: ShrimplinBrown Ltd) at land east of King Street, West Deeping - S81/0053/17	15 - 40
5.2	To vary condition 3 of planning permission B/0435/16 to extend the range of permitted feedstock materials including the use of Refuse Derived Fuel (RDF) - Biomass UK No. 3 Ltd (Agent: Power Consulting (Midlands) Ltd at Riverside Industrial Estate, Marsh Lane, Boston - B/0051/17	41 - 60
6.	Other Reports	
6.1	The revocation of three Hazardous Substance Consents relating to the Theddlethorpe Gas Terminal, Theddlethorpe St Helens, Mablethorpe	61 - 74

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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
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**PLANNING AND REGULATION
COMMITTEE
6 MARCH 2017**

PRESENT: COUNCILLOR I G FLEETWOOD (CHAIRMAN)

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

Councillors: W J Aron and P M Dilks attended the meeting as the local and neighbouring Members, respectively (minutes 81 and 82).

Officers in attendance:-

Steve Blagg (Democratic Services Officer), Andy Gutherson (County Commissioner for Economy and Place), Neil McBride (Planning Manager), Stuart Tym (Solicitor) and Marc Willis (Applications Team Leader)

76 APOLOGIES/REPLACEMENT MEMBERS

Apologies for absence were received from Councillors M S Jones and Mrs H N J Powell.

77 DECLARATIONS OF MEMBERS' INTERESTS

Councillor T M Trollope-Bellew requested that a note should be made in the minutes that he had received an email from West Deeping Parish Council and it was his understanding that this email had gone to all members of the Committee and a separate email from the Parish Clerk, on the same matter (minute 81).

78 MINUTES OF THE PREVIOUS MEETING OF THE PLANNING AND REGULATION COMMITTEE HELD ON 6 FEBRUARY 2017

RESOLVED

That the minutes of the previous meeting of the Committee held on 6 February 2017, be approved as a correct record and signed by the Chairman.

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PLANNING AND REGULATION COMMITTEE
6 MARCH 2017

79 MINUTES OF THE SITE VISIT IN CONNECTION WITH PLANNING APPLICATION NO. L/1076/16 (VEOLIA SITE, LONG LEYS ROAD, LINCOLN) HELD ON 6 FEBRUARY 2017

RESOLVED

That the minutes of the site visit to Veoli, Long Leys Road, Lincoln, be agreed as a correct record.

80 COUNTY MATTER APPLICATIONS

81 TO CONTINUE TO EXTRACT SAND AND GRAVEL WITHOUT COMPLYING WITH CONDITIONS 2 (DETAILS AND PLANS), CONDITION 10 (PLANT AND MACHINERY) AND CONDITION 11 (SITE LAYOUT) IMPOSED BY PERMISSION S81/1588/89 (AS AMENDED BY PERMISSIONS S81/0787/01 AND S81/1112/07) TOGETHER WITH THE DISCHARGE OF CONDITION 2 (ADDITIONAL EMBANKMENTS) AND CONDITION 3 (VEHICULAR ACCESS) OF S81/1112/07. THE PROPOSAL IS FOR AN AMENDED LOCATION AND AMENDMENTS TO THE LAYOUT AND DESIGN OF THE APPROVED AGGREGATE PROCESSING PLANT AND FOR ANCILLARY OFFICES AND A BAGGING PLANT WITHIN THE SITE. A NEW LOCATION IS ALSO PROPOSED FOR THE SILT LAGOON AND AMENDED FRESHWATER LAGOON. ASSOCIATED MINOR CHANGES ARE PROPOSED TO THE METHOD OF WORKING AND PROGRESSIVE RESTORATION SCHEME INCLUDING THE CREATION OF A CONSERVATION WETLAND AND AMENDED DETAILS RELATING TO THE SITE ACCESS - CEMEX UK OPERATIONS LTD (AGENT: SHRIMPLINBROWN LTD) - S81/0053/17 - LAND EAST OF KING STREET, WEST DEEPING

(Councillor Ms T Keywood-Wainwright arrived in the meeting during consideration of this item).

Since the publication of the report further correspondence had been received from the Welland and Deepings Internal Drainage Board, South Lincolnshire Fenlands Partnership, West Deeping Parish Council together with the response of the Planning Manager. The correspondence and response were detailed in the update to the Committee which was available for viewing on the Council's website.

Iain Stowe, an objector, commented as follows:-

- The Committee had received letters of objection from the West Deeping Parish Council and he did not propose to elaborate on them.
- There was already a sand and gravel processing plant within 200 metres of the proposed Cemex plant belonging to Breedon which extracted from the Rectory Farm site neighbouring the Cemex area along its east boundary. Material was conveyed along the northern boundary of the Cemex area, under King Street and then down to the west side of the plant.

- The original location for the processing plant was well screened with developed vegetation and trees, was a decent distance from the nearest residential housing and there would be no reason for the West Deeping community to object to its continued use.
- The processing plant operated by Breedon on the adjoining quarry would be well placed to process extracted material from the northern end of the Cemex area via its existing conveyor system. It was understood from their management that they intended to apply to extract the MS29 site, once the location was confirmed. They were well placed to do so by extending their existing conveyor system.
- The conclusion was that if common sense could prevail there was simply no need for this second plant. This was not a new suggestion as it was the intention of RMC Aggregates & LaFarge (now Breedon) to do just this in 2001, document A9 refers.
- There were significant traffic safety issues developing at the junction of King Street and the A1175. If this application was permitted there would be three accesses in simultaneous operation, all within 400 metres of the junction.
- The Breedon plant offered sequential processing of material extracted from their existing site, the Cemex site and the MS29 site thus reducing the peak traffic movements by spreading them over a longer period.
- A sensible overall strategy for extraction around West Deeping.
- The Committee's support was sought for a review of the processing and traffic stemming from extraction consents existing and impending around West Deeping was required by all of the parties.
- The Committee should refuse the application to enable Planning, Cemex and Breedon to jointly consider more appropriate ways forward.

James Brown, representing the applicant, commented as follows:-

- The West Deeping site was originally granted permission in October 1997 and proposals were formally implemented by CEMEX in 2007. The site was a replacement for Manor Pit quarry where reserves would be exhausted by July 2017. The site was a consented and implemented stand-alone site for mineral extraction where it had been accepted that a processing plant could be erected. Previous proposals about 10 years ago to transfer won material for off-site processing at Manor Pit were not economically viable due to the implementation and haulage costs.
- The current application had arisen to ensure that a modern efficient aggregate plant was installed at West Deeping in a more suitable location and with ancillary infrastructure.
- The officer's report provided a robust assessment of the proposals.
- The processing plant submitted in 1989 was no longer manufactured and so this application was necessary to agree the new details and layout for the processing plant. The new plant proposed was quieter and more technologically advanced.
- The 1989 layout did not show the location of the site office, welfare facilities and staff parking which were now included. A bagging plant was also proposed to mirror facilities at Manor Pit.

- A new plant site location was also proposed which facilitated the following benefits:-
 - It was further away from the nearest residential property (The Lodge).
 - There would be a shorter internal haul road from the entrance to the plant site which would be more efficient and would have a lower environmental impact.
 - Allowed phasing to be kept the same as the original and avoided the need to move the plant around the site for later phases which was impractical.
 - The revised siting of both the plant site and silt lagoon would avoid the need for a large pump to discharge the silt which could be gravity fed.
 - The new plant could now be powered by the mains electricity feed from the substation lying to the south.
 - The new plant would be in a less prominent location and views from public viewpoints would be screened by 3 metre high bunding, some of which already existed.
- The current proposals would retain all of the controls and safeguards as set out within the original consents and in addition CEMEX had also taken the opportunity to provide a number of additional environmental improvements which would improve the relationship with sensitive receptors as follows:-
 - There were currently no restrictions on noise output of machinery or extraction works. CEMEX had commissioned a noise assessment report to support the application and based on the findings of the report they were proposing a noise attenuation bund on land adjoining the Lodge. The mitigation provided by the bund was driven by the already consented extraction works and not the processing plant which was to be moved further away.
 - The new processing plant and bagging plants would be modern plants with built in dust suppression measures. A dust monitoring scheme had also been prepared and would be adhered to, adding an additional layer of protection.
 - Additional screening bunds and planting were to be provided as secured by the proposed new condition 13.
- The current amendments did not themselves necessitate these measures but rather these were offered up voluntarily by CEMEX as proposed improvements to working practices.

Councillor P M Dilks, the neighbouring local Member, commented as follows:-

- He stated that he was the neighbouring local Member to the application site, was standing in for the local Member, who was unable to attend due to illness and had been asked by the Chairman of West Deeping Parish Council to speak.
- It was regrettable that the applicant had not spoken to West Deeping Parish Council about the application.
- Twenty years ago permission had been granted for a processing plant and no objections had been received.
- The proposed location of the processing plant was the main issue.

- There were no photographs available to show views looking back to the village as in his opinion the plant was much closer to West Deeping than the 300m detailed in the report. Why was the applicant proposing to move his plant closer to the village as there was no justification for this as detailed in the report?
- The plant's existing location was within reach of the substation.
- The proximity of the silt lagoons to the processing plant was unusual.
- The height of the plant seemed to be too high at 13 metres and would impact on the northern aspect of West Deeping.
- Referred to the National Planning Policy Framework and the amenity implications if the application was approved.
- Referred to the Lincolnshire Waste and Local Plan recently approved by the Council which suggested that there was another major site in close proximity to the application site and was likely to be affected if this site was developed.
- The entrances to the application site should be left in their current location. If required they could be located nearer the substation was safer.
- Deferral of the application would allow consultations to take place with West Deeping Parish Council and a compromise sought.

Comments made by the Committee and responses by officers included:-

- Pre-application consultation by the applicant with the Parish Council was not mandatory.
- The proposed bunding would have no adverse effect on West Deeping.
- The prevailing winds were in the wrong direction and the surrounding area would not be affected.
- Hedging existed around the proposed site. Officers explained the location of the site, the presence of a field, hedging and behind the hedging the processing plant.
- Traffic lights had been suggested at the crossroads (King Street/A1175).
- The Parish Council's observations were based on emotion instead of fact.
- Officers stated that the Breedon plant was a separate operation and highlighted the advantages of the new location including the noise alleviation measures proposed.
- How far was the application from residential property? Officers highlighted the location of the site in the report and showed the location of the bagging plant.
- The maps presented to the Committee were not clear, knowledge of the geography of the site was unknown and a site visit should be arranged.
- HGVs from Breedon already used the A1175/King Street junction.
- The bunding should be increased in height from 3m to 5m with the use of top soil to reduce noise. Officers stated that it had been agreed to reduce the height of the bunding to 3m, that it was not possible to use top soil above 3m and that 3m was sufficient height to reduce noise.

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On a motion moved by Councillor Mrs J M Renshaw, seconded by Councillor G J Ellis, it was –

RESOLVED (7 votes for, 1 vote against, 2 abstentions. Councillors Ms T Keywood-Wainwright did not vote as she arrived in the meeting during discussion of this item)

That consideration of the planning application be deferred pending a site visit.

82 TO RETAIN BIOMASS BOILER SYSTEM - PAUL RIDDEL SKIP HIRE LTD (AGENT: RYLAND DESIGN SERVICES LTD) - (E)S86/0014/17 - PAUL RIDDEL SKIP HIRE LTD, HEMINGBY LANE, HORNCastle

(Note: Councillor D Brailsford arrived during consideration of this item)

Andy Watson, an objector, commented as follows:-

- The application site was not complying with current planning conditions and was a nuisance to the neighbourhood.
- Air quality was affected by polluting acrid smoke coming from the biomass boiler system, was burning material which should not be burnt and did not comply with clean air legislation.
- Local people's amenity was being affected as they were unable to enjoy their gardens and leave their windows open.
- The lack of compliance with the National Planning Policy Framework.
- Local residents would issue an abatement notice if the problems persisted.
- Information had been submitted to Horncastle Town Council about problems at the site and complaints about smoke had been made to the Town Council in September 2016.

Councillor W J Aron, the local Member, commented as follows:-

- He knew the applicant and had attended Horncastle Town Council when the application had been considered and only one objection had been received. The Town Council had expressed concern about emissions, the height of the flue and the materials burnt.
- The application should comply with regulations. There was evidence of acrid black smoke. Had the modifications to reduce smoke been successful and when were the modifications carried out? Officers stated that the modifications had been requested by the District Council's Environmental Health Officer and implemented by the applicant with the only caveat that a request was made by the EHO that any planning permission granted should include a condition restricting the types of materials that could be burnt.
- If the Committee was minded to approve the application then the conditions needed to be rigorously enforced so that residents were able to sit in their gardens.

Comments made by the Committee and the response of officers included:-

- What was being burnt to create the smoke? Officers stated that the applicant had on occasions put painted wood in to the boiler.
- Officers stated that they were unaware when the last complaint in connection with the proposed development had been received and that the Environmental Health Officer did not object to the application provided a condition was imposed.
- The responsibility for ensuring compliance with air emissions regulations under the statutory nuisance legislation was the Environment Agency (EA) and the Environmental Health Officer not the Waste Planning Authority. Officers stated that the role of planning was to consider the land use implications of the development and the matter of air emissions was the responsibility of other agencies. It had to be assumed that the other regulators would undertake the necessary action to address any air emission issues and this was not a matter for the Planning Authority.
- The ultimate police force was the local community and they should report any problems to the Environmental Health Officer.
- What happened to all of the wood used on the applicant's site before the biomass boiler was installed? Officers stated that the applicant had shredded the wood and removed off site for recycling/reuse.
- Was there a sufficient water supply to the site and had the Fire and Rescue Service been consulted? Officers stated that the Fire and Rescue Service had not been consulted on this particular applications but were aware of the scrapyards and inspected the site to ensure fire regulations were complied with.
- Officers stated that when the boiler first came into operation there had been problems but following advice from the Environmental Health Officer the applicant had made the necessary improvements.
- In response to comments made in connection with the Energy from Waste plant at North Hykeham this was an industrial size plant and the issues here had been in connection with the visual impact of the plume of smoke from the chimney stack rather than the content of the plume of smoke which was addressed by other legislation under the control of the EA.

The Committee concluded that the conditions attached to the planning permission would need to be rigorously monitored and that the Council's Enforcement/Monitoring Officers should visit the site on a regular basis.

On a motion by Councillor T M Trollope-Bellew, seconded by Councillor I G Fleetwood, it was –

RESOLVED (7 votes for, 4 votes against and 1 abstention (Councillor D Brailsford because he had arrived during consideration of this item))

That planning permission be granted subject to the conditions detailed in the report.

The meeting closed at 12.00 pm

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PLANNING AND REGULATION COMMITTEE SITE VISIT 10 MARCH 2017

PRESENT: COUNCILLOR I G FLEETWOOD (CHAIRMAN)

Councillors D McNally (Vice-Chairman), D Brailsford, D Hunter-Clarke, N H Pepper, Mrs J M Renshaw, T M Trollope-Bellew and W S Webb

Officers in attendance:-

Andrea Brown (Democratic Services Officer) and Marc Willis (Applications Team Leader)

1. APOLOGIES/REPLACEMENT MEMBERS

Apologies for absence were received from Councillors J W Beaver, G J Ellis, D C Hoyes, M S Jones, Ms T Keywood-Wainwright, Mrs H N J Powell and C L Strange.

There were no replacement Members in attendance.

2. TO CONTINUE TO EXTRACT SAND AND GRAVEL WITHOUT COMPLYING WITH CONDITIONS 2 (DETAILS AND PLANS), CONDITION 10 (PLANT AND MACHINERY) AND CONDITION 11 (SITE LAYOUT) IMPOSED BY PERMISSION S81/1588/89 (AS AMENDED BY PERMISSIONS S81/0787/01 AND S81/1112/07) TOGETHER WITH THE DISCHARGE OF CONDITION 2 (ADDITIONAL EMBANKMENTS) AND CONDITION 3 (VEHICULAR ACCESS) OF S81/1112/07. THE PROPOSAL IS FOR AN AMENDED LOCATION AND AMENDMENTS TO THE LAYOUT AND FOR ANCILLARY OFFICES AND A BAGGING PLANT WITHIN THE SITE. A NEW LOCATION IS ALSO PROPOSED FOR THE SILT LAGOON AND AMENDED FRESHWATER LAGOON. ASSOCIATED MINOR CHANGES ARE PROPOSED TO THE METHOD OF WORKING AND OF A CONSERVATION WETLAND AND AMENDED DETAILS RELATING TO THE SITE ACCESS – CEMEX UK OPERATIONS LTD (AGENT: SHRIMPLINBROWN LTD) – S81/0053/17 – LAND EAST OF KING STREET, WEST DEEPING

The Committee made a site visit of the application site prior to consideration of the planning application by the Committee at its meeting scheduled for Monday 3 April 2017.

Officers provided the Committee with an explanation of the purpose of the site visit and an outline of the nature of the application site as set out below.

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PLANNING AND REGULATION COMMITTEE

10 MARCH 2017

1. The height of the soil bunds was to be reduced to 3m which would ensure they were consistent with that previously consented. This would also ensure that the structure and integrity of the topsoil was protected during storage so that they were fit for purpose and hold sufficient quality to be reused as part of the restoration proposals.
2. 3m high soil bunds would mean that only the top of shed would be visible.
3. The nearest residential property was pointed out to the Committee (Lodge Farm) which was adjacent to the sites eastern boundary with another property (Rectory Farm) located approximately 300m to the east. The village of West Deeping was confirmed as being 300m to the south on the opposite side to the A1175.
4. The Greatford Cut (land drain) lay to the north of the proposed site and a substantial electricity substation to the south.
5. The adjoining land to the proposal site was being progressively quarried for sand and gravel by Tarmac.
6. Access to the proposed site was via a new entrance which had been constructed onto King Street in accordance with an approved S278 Highways Agreement.

In response to a question from the Committee, officers stated that the noise generated from the revised processing plant would be less than the site opposite as the equipment proposed to be installed would have new and more efficient motors. A noise condition would also be in place to ensure compliance with relevant guidance. Currently, there was no noise restriction/control on the existing planning permission.

It was suggested that the Committee drive along King Street to view the rear of the proposed site, near the Greatford Cut.

The Chairman confirmed, following clarification of legal advice provided, that only those Members who had attended the site visit would be able to vote on this application when considered at the Planning & Regulation Committee on Monday 3 April 2017.

The site visit ended at 11.00am.

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

Report to:	Planning and Regulation Committee
Date:	3 April 2017
Subject:	County Matter Application - S81/0053/17

Summary:

Supplementary Report

Planning permission is sought by Cemex UK Operations Ltd (Agent: ShrimplinBrown Ltd) to continue to extract sand and gravel without complying with condition 2 (details and plans), condition 10 (plant and machinery) and condition 11 (site layout) imposed by permission S81/1588/89 (as amended by permissions S81/0787/01 and S81/1112/07) together with the discharge of condition 2 (additional embankments) and condition 3 (vehicular access) of S81/1112/07.

At its meeting on 6 March 2017 the Planning and Regulation Committee, following consideration of the application, the written update and having heard the oral presentations from representatives for the applicant, West Deeping Parish Council and the Local Member, resolved to defer consideration of the application and to carry out a site visit on 10 March 2017. Councillors wished to inspect the site and surrounding area and to assess the proximity of the proposed revised plant site location to the village of West Deeping.

Recommendation:

The recommendation remains that planning permission be granted subject to the conditions as contained in the report attached as Appendix B to this report.

Background

1. At its meeting on 6 March 2017 the Planning and Regulation Committee considered an application by Cemex UK Operations Ltd to continue to extract sand and gravel without complying with condition 2 (details and plans), condition 10 (plant and machinery) and condition 11 (site layout) imposed by permission S81/1588/89 (as amended by permissions S81/0787/01 and S81/1112/07) together with the discharge of condition 2 (additional embankments) and condition 3 (vehicular access) of S81/1112/07.
2. The application proposes amendments to the location, layout and design of the approved aggregate processing plant and includes details relating to

ancillary offices and a bagging plant within the site. A new location is also proposed for the silt lagoon and amended freshwater lagoon along with associated minor changes to the method of working and progressive restoration scheme.

3. Following consideration of the application, the written update and having heard the oral presentations from representatives for the applicant, West Deeping Parish Council and the Local Member, the Planning and Regulation Committee resolved to defer consideration of the application and to carry out a site visit on 10 March 2017. Councillors wished to inspect the site and surrounding area and to assess the proximity of the proposed revised plant site location to the village of West Deeping. The site visit took place on the 10 March 2017 and a copy of the Minutes which summarise and record the issues discussed at the site visit part of this Committee's agenda pack. The Minutes of the 6 March 2017 Planning & Regulation Committee meeting are also included within this pack and provide a summary of the issues raised by the Parish Council and applicant during the meeting.
4. Since the last meeting a letter has been received from the Rt Hon John Hayes CBE MP (South Holland and The Deepings) which states that he is supportive of the position and comments made by West Deeping Parish Council and requests that these are addressed in the determination of the application. No further information or representations have been received from the applicant or third parties since the last Committee meeting or the site visit. The comments, issues and objections raised by the Parish Council have already been reported and addressed in the previous report (dated 6 March 2017) and no further response is therefore considered necessary.

RECOMMENDATION

Following consideration of the original Officer's report, written update and oral presentations made to the Planning and Regulation Committee on 6 March 2017, and having undertaken the site visit on the 10 March 2017, the recommendation remains that planning permission be granted subject to the conditions as contained in the report attached as Appendix B to this report.

Appendices

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 6 March 2017 relating to County Matter Application reference S81/0053/17.
Appendix A	Committee Plan

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

Report to:	Planning and Regulation Committee
Date:	6 March 2017
Subject:	County Matter Application - S81/0053/17

Summary:

Planning permission is sought by Cemex UK Operations Ltd to continue to extract sand and gravel without complying with conditions 2 (details and plans), condition 10 (plant and machinery) and condition 11 (site layout) imposed by permission S81/1588/89 (as amended by permissions S81/0787/01 and S81/1112/07) together with the discharge of condition 2 (additional embankments) and condition 3 (vehicular access) of S81/1112/07.

The proposal is for an amended location, layout and design of the approved aggregate processing plant and for ancillary offices and a bagging plant within the site. A new location is also proposed for the silt lagoon and amended freshwater lagoon. Associated minor changes are also proposed to the method of working and progressive restoration scheme including the creation of a conservation wetland in part of the site and amended details relating to the site access at land east of King Street, West Deeping.

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 was first granted in October 1997 (reference: S81/1588/89) for the extraction of sand and gravel at land east off King Street, West Deeping. That permission was subject to 12 planning conditions and a S106 Planning Obligation (covering lorry routeing, drainage, archaeology, advance landscaping and after-use) as well as a Section 278 Highways Agreement with respect to the proposed improvements between the site access and the A16.
2. In November 2001 a Section 73 planning permission (reference: S81/0787/01) was granted which varied Condition 1 attached planning

permission S81/1588/89 and allowed an extended period for the commencement of the development. The new time limit imposed was 24 October 2007 and the remaining conditions and obligations secured by the S106 Planning Obligation remained unchanged by this decision.

3. In September 2007 a further Section 73 planning permission (reference: S81/1112/07) was granted which removed Conditions 5 and 7 as imposed on permission S81/1588/89 and replaced these with three additional conditions. At the time this application was considered the applicant indicated that rather than erect a processing plant within the King Street site, minerals extracted from the site would instead be transported for processing at their Manor Pit Quarry near Baston. The application therefore allowed a reduction in the amount of visual screening required around the site (to reflect operational changes) and to enable the existing planning permission to be lawfully commenced within the timescale set by Condition 1 (i.e. 24 October 2007). Following the issuing of this consent, works were undertaken in order to lawfully implement the consent however since then the site has remained inactive as operations have remained focused on the applicant's Manor Pit Quarry.

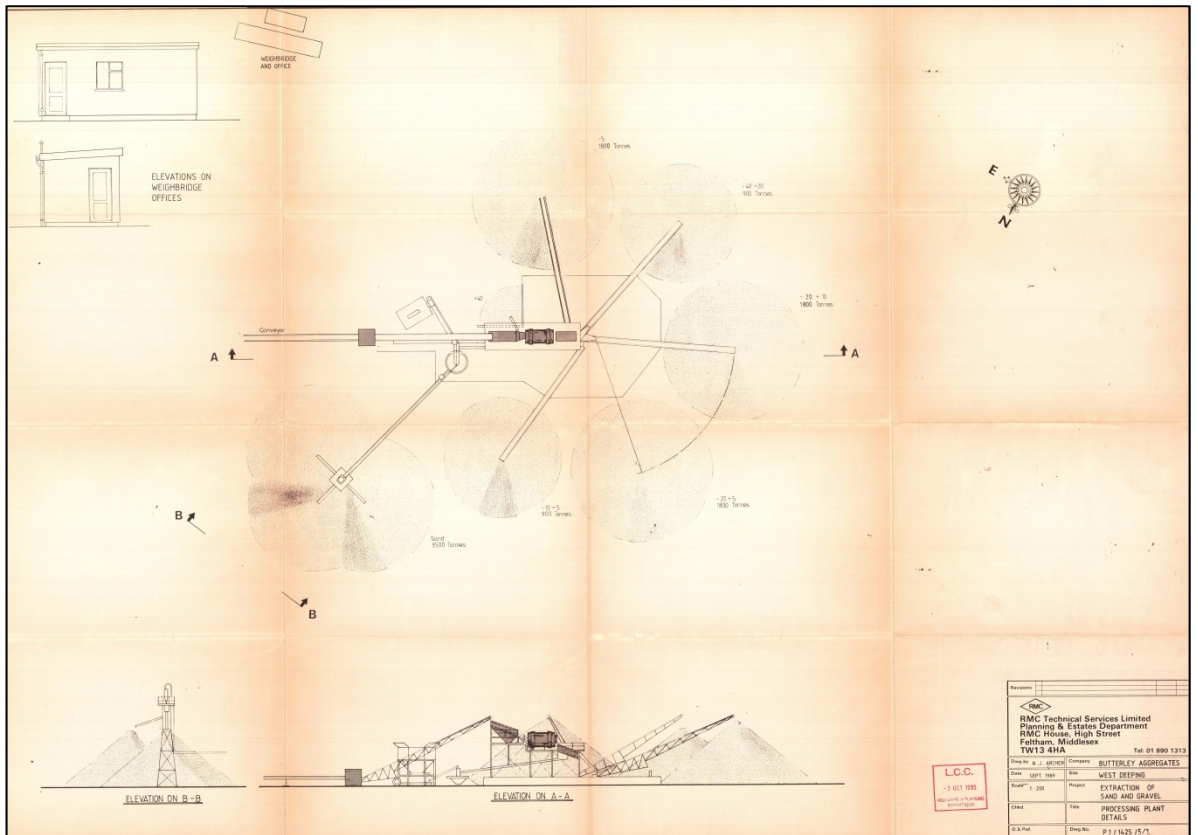
The Application

4. Planning permission is sought by Cemex UK Operations Ltd (Agent: ShrimplinBrown Ltd) to continue to extract sand and gravel without complying with conditions 2, 10 and 11 imposed by permission S81/1588/89 (as amended by permissions S81/0787/01 and S81/1112/07) together with the discharge of condition 2 and condition 3 as imposed by permission S81/1112/07 which relates to the sand and gravel operation permitted on the land east of King Street, West Deeping.
5. The application comprises of two main elements:

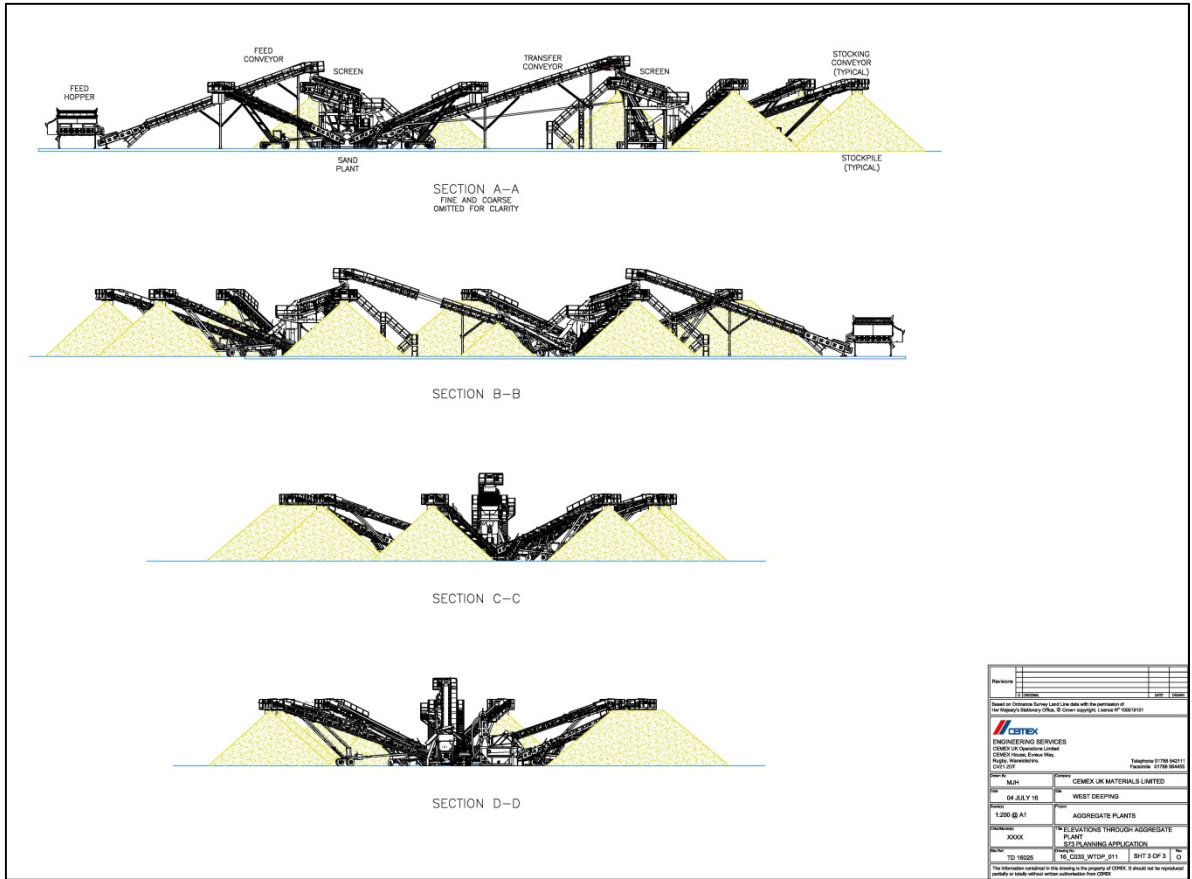
Variation of conditions 2, 10 and 11 of permission S81/1588/89 (as amended by permissions S81/0787/01 and S81/1112/07) - the proposed amendments would vary document/plans/details referenced or approved by existing conditions so as to allow for the relocation, revised layout and design of an aggregate processing plant, ancillary offices and bagging plant. A new location is also proposed for the silt lagoon along with an amended freshwater lagoon as well as minor changes to the method of working and progressive restoration scheme including the creation of a conservation wetland within part of the site. Further details setting out the reasoning and details relating to each of these elements is given below:

- (i) Aggregate plant/ancillary offices/bagging plant – the processing plant submitted as part of the original application in 1989 is no longer manufactured and therefore the details as previously shown and approved on drawings cited within Condition 2 cannot be complied with. Revised details relating to a more modern aggregate processing plant comprising of a series of hoppers, screeners and conveyors have therefore been submitted. The new facility would be approximately

13m high and cover a footprint of around 84.2m in length by 7m wide and would be set on a concrete pad and be black and grey in colour. It is also proposed to relocate the facility to the south of the site rather than the currently approved location which is along the western boundary of the site (alongside King Street) north of the site entrance. The revised position of the plant means that it could be powered by a mains electricity feed from the substation lying to the south of the site and also would be closer to the freshwater and silt lagoons which are to be constructed along the eastern edge of the site. This revised location would also reduce the haulage distances between the processing plant, bagging plant and site entrance and therefore offers wider operational efficiencies.

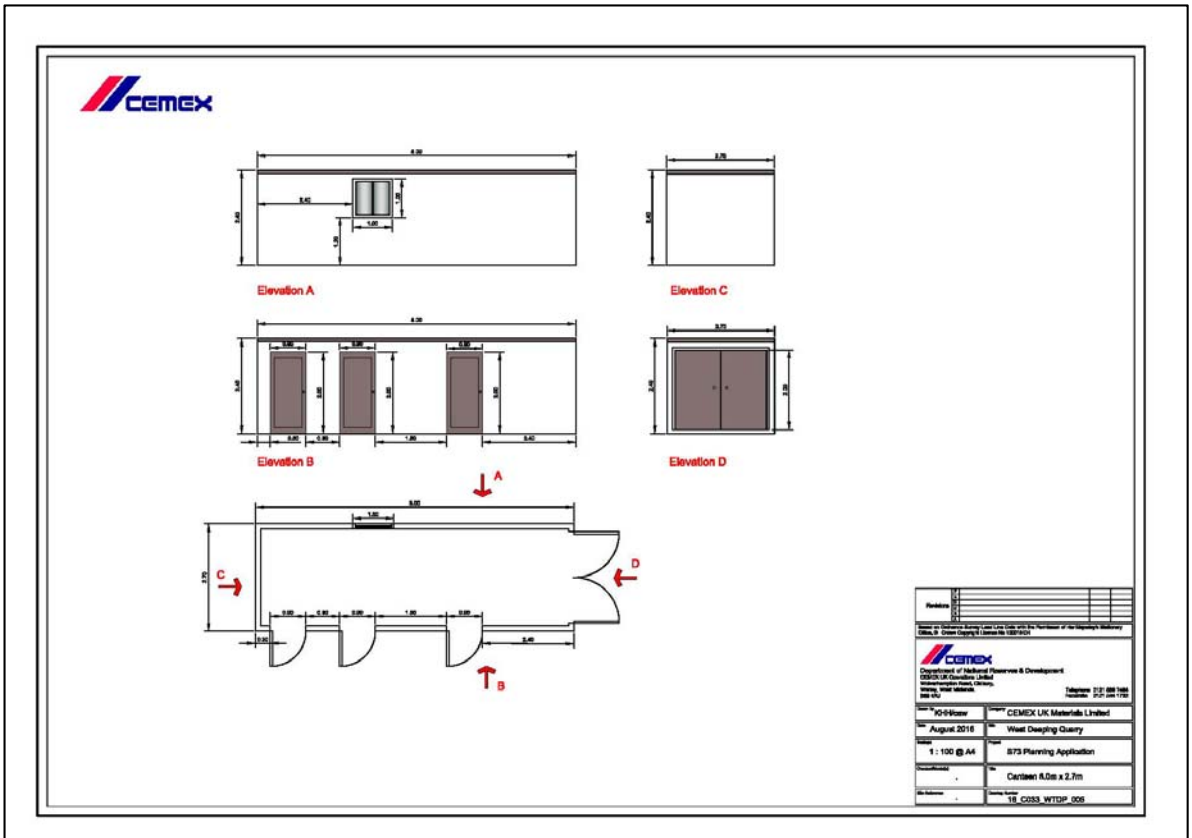


Existing approved aggregate processing plant

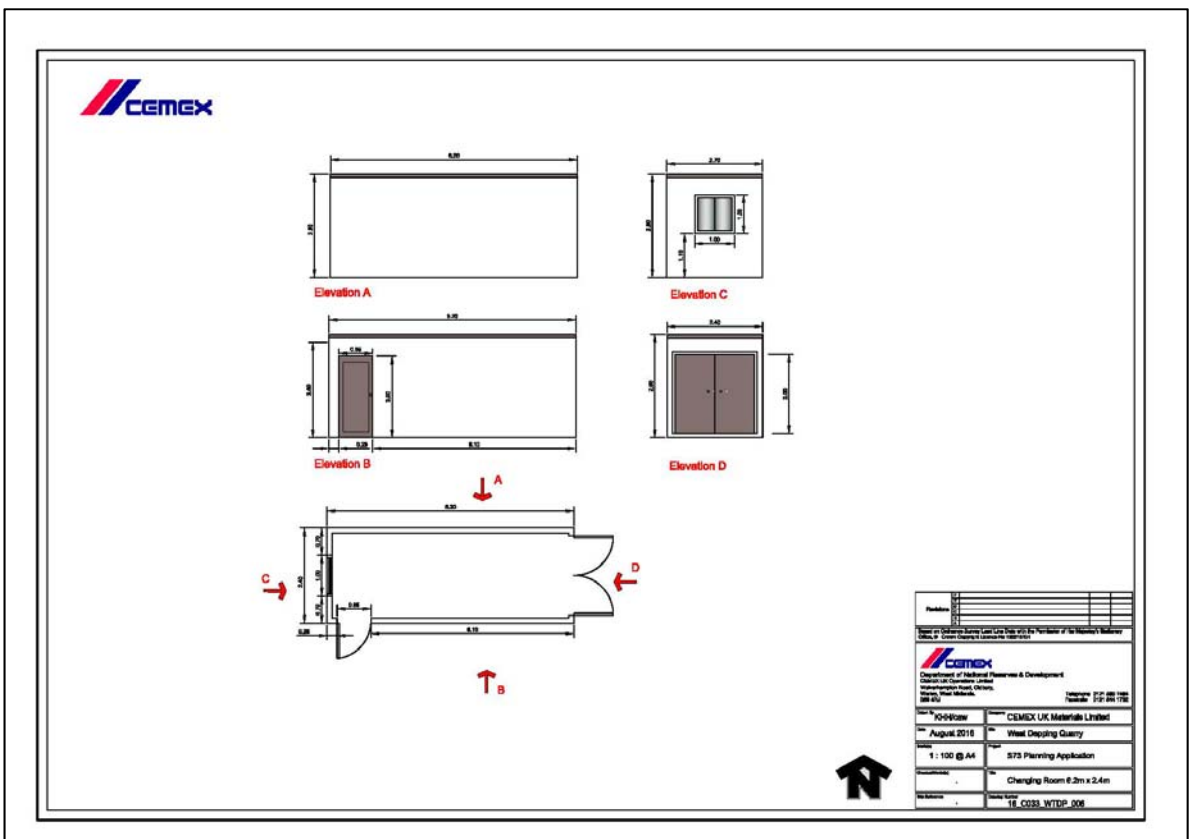


Elevation through proposed modern aggregate plant

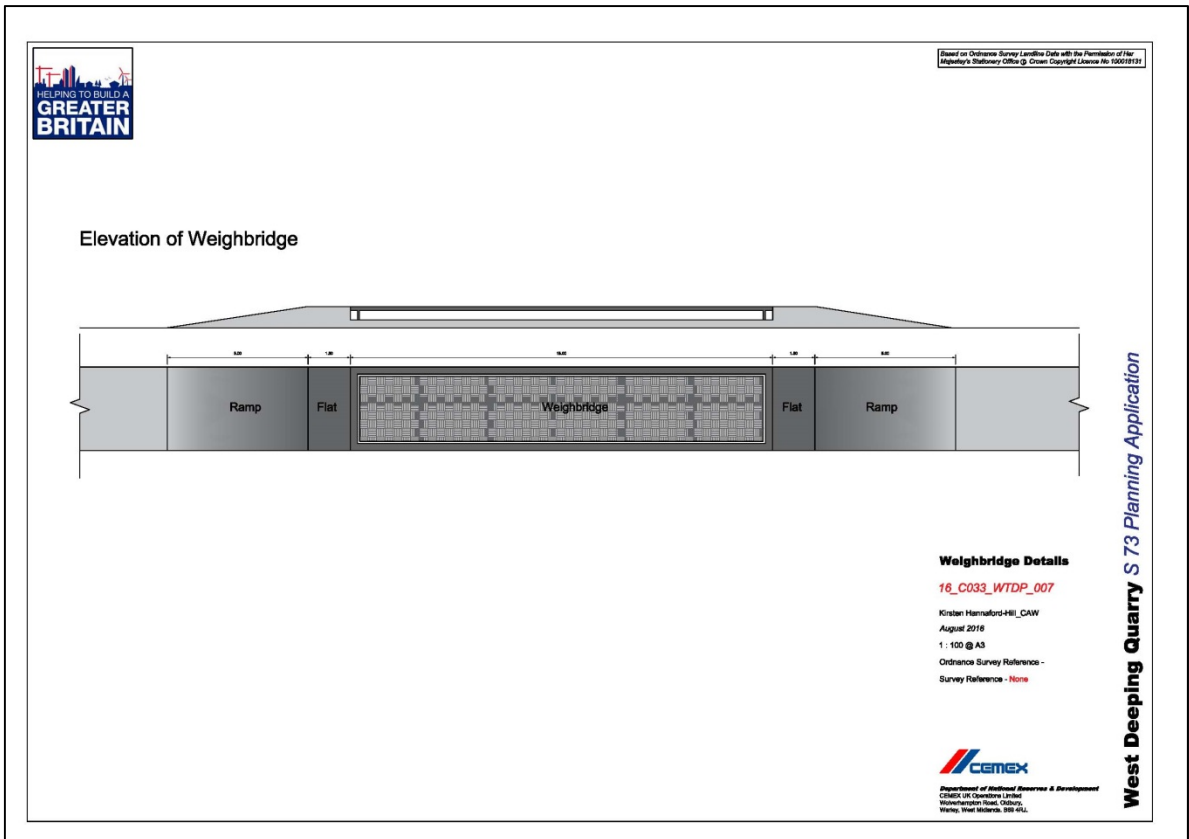
In addition to the above, details of ancillary site accommodation and infrastructure have also been submitted. These include a site office, canteen and staff changing facilities, weighbridge and associated office. A new bagging plant is also proposed to be erected within the site which would act as a replacement for the current facility at Manor Pit. The bagging plant building would be an industrial style building (approx. 30m by 20m by 10m to the roof ridge) which would house the bagging plant/equipment and stocking area for bagged materials. This building, along with the other ancillary buildings and infrastructure, would also be located towards the southern end of the site. Condition 10 imposed on permission S81/1588/89 requires details of any ancillary buildings, plant and equipment to first be submitted and approved by the Mineral Planning Authority. The applicant has therefore submitted this information with the intention that these can now be approved.



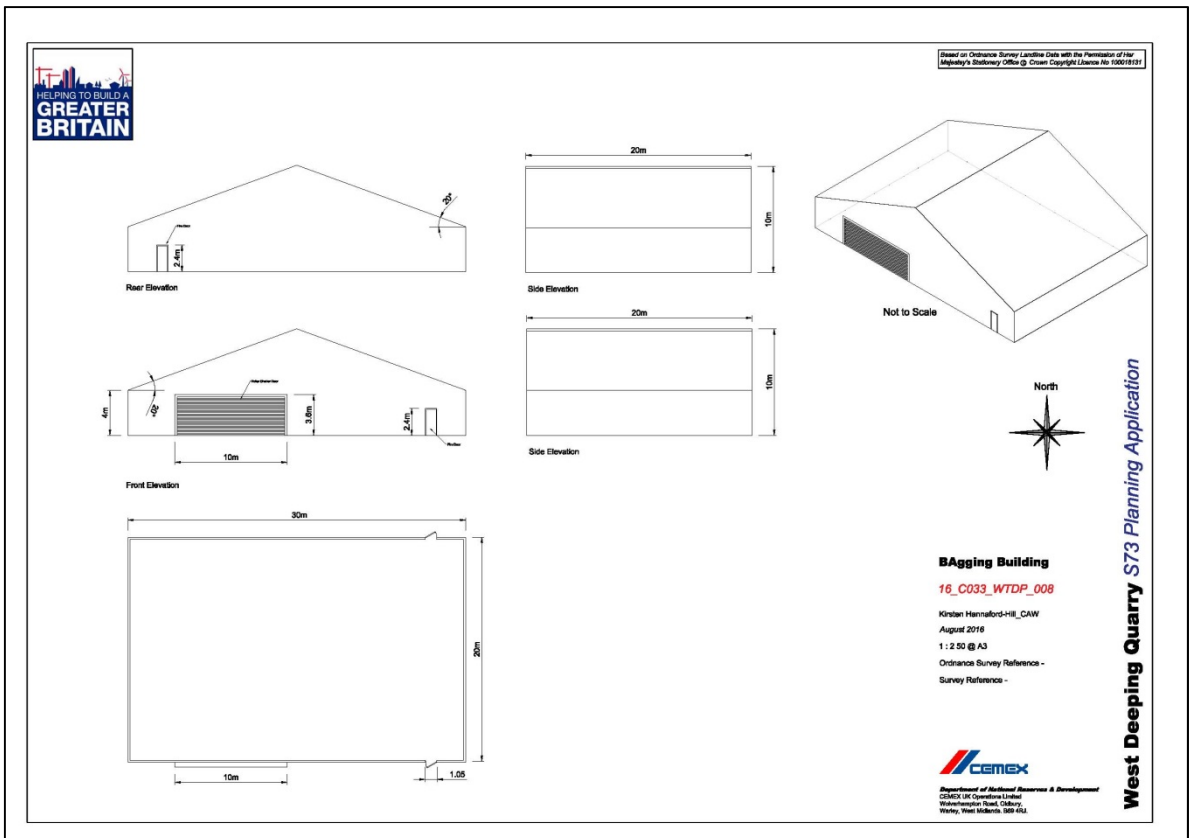
Canteen: Proposed Elevations & Floor Plans



Changing Room: Proposed Elevations & Floor Plans



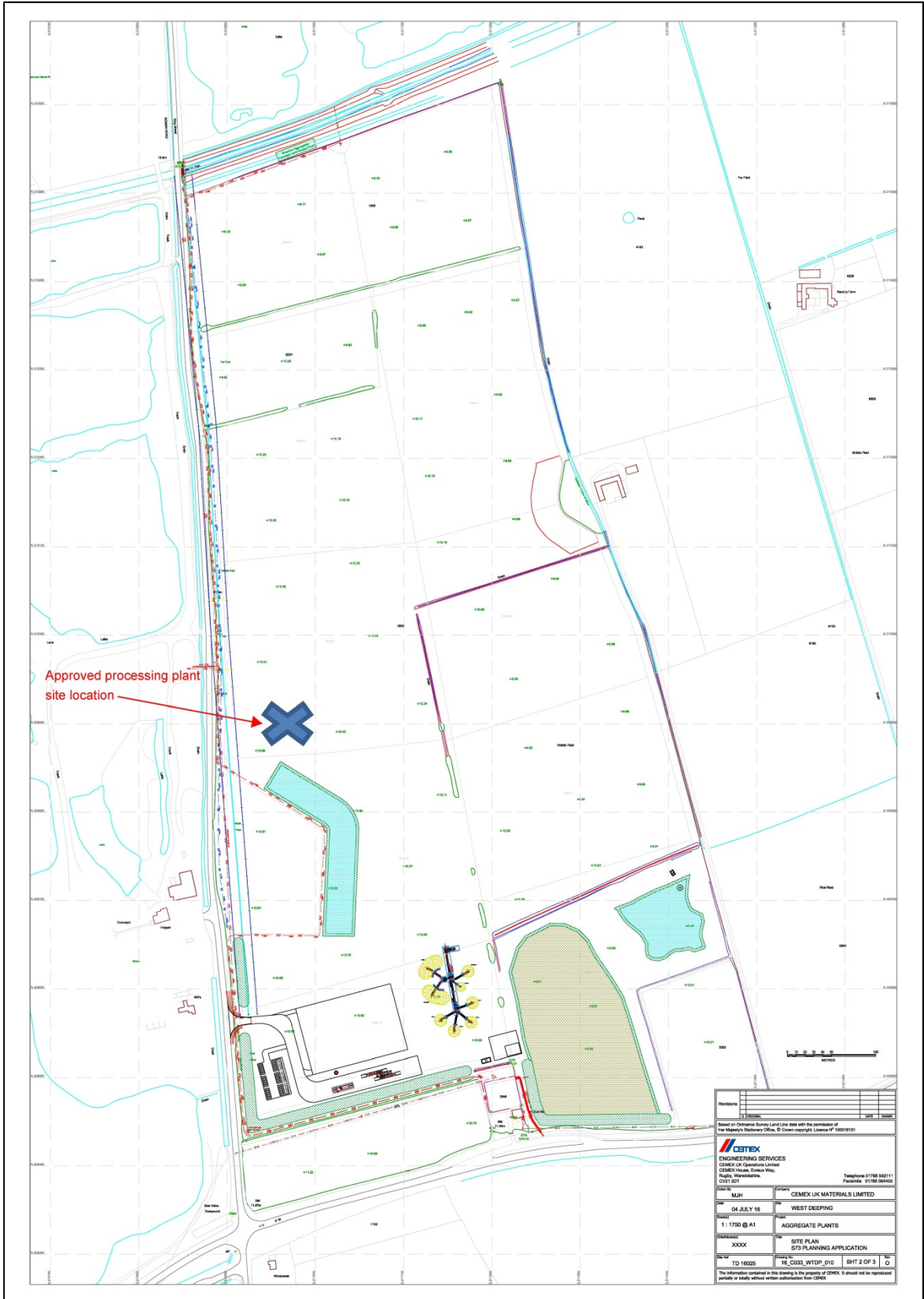
Weighbridge Proposed Plan



Bagging Building: Proposed Elevations & Floor Plans

- (ii) Revised freshwater and silt lagoon – the approved freshwater lagoon would be enlarged in order to meet the water consumption requirements of the now proposed aggregate processing plant. The silt lagoon, which was originally proposed to be sited north of the site entrance, is proposed to be relocated so as to be closer to the new plant site area and this would be utilised for the duration of the extraction operations and eventually be restored to an agricultural use.

- (iii) Revised site layout plans, method of working and restoration – in order to accommodate the revised plant site location and amendments to the freshwater and silt lagoons, amendments are proposed to the site layout, method of working and phasing plans for the site. The method and progressive sequence of working and restoration follows that previously approved with operations advancing from the south-western corner of the site in a south-north direction before returning along the western flank in a north-south direction. Clay seals would be progressively constructed around the site as the operations advance with the exception of seals around the archaeological area of importance and Lodge Farm which would be created as part of the first phase of works. Overall the site would be progressively worked and restored with the whole site being restored back to low level agricultural use with the exception of a small area of wetland which would be created in the south-eastern corner.



Site Plan

Revised drawings and details reflecting all of the above have been submitted as part of the application. In addition to the revised plans and drawings the application is also supported by a noise assessment and dust monitoring scheme. There is currently no noise limit condition attached to the planning permission however given the proposed relocation and revised plant site design, the applicant has deemed it appropriate to undertake a noise assessment in order to understand the potential impact of the revised development on nearby sensitive receptors and, if necessary, to identify the need for any additional mitigation. The submission and proposed implementation of a dust monitoring scheme also reflects modern working practices since the original consent was granted. The applicant proposes that these details, along with the amended and updated drawings, replace, supplement or supersede those previously referenced or approved by conditions attached to the existing planning permission.

Details relating to Conditions 2 and 3 of permission S81/1112/07 - this element of the application seeks to address and satisfy the requirements of these conditions. The conditions required details relating to the site access and soil bund locations/design around the processing plant site area to be submitted for approval. Details have therefore been submitted by the applicant in order that these conditions can either be removed or the details subsequently approved and incorporated into the details to be approved and cited in conditions attached to any re-issued and updated consent.

- (i) Soil bunds – details have been submitted which illustrate the design and location of the soil embankments that have been constructed around the plant site area. The embankments have already been constructed along the southern boundary of the site as well as around the site entrance and proposed relocated plant site area. The bunds have been constructed using topsoils stripped from Phase 1 and are currently a maximum height of 4m. Following discussions between your Officers and the applicant, the applicant has however confirmed that the height of these bunds would be reduced to 3m. This amendment would ensure that the bunds are consistent with that previously consented but more importantly ensure that the structure and integrity of the topsoil is protected whilst they are stored so that they are fit for purpose and sufficient quality when they are to be re-used as part of the restoration proposals.
- (ii) Site access – details have been submitted which illustrate the configuration and design of the access to the site. The site access has been constructed in accordance with a scheme that has already been approved as part of a S278 Highway Agreement. Notwithstanding this, Condition 3 attached to permission S81/1112/07 requires details relating to the access to be submitted for the written approval of the Mineral Planning Authority. The details submitted are therefore seeking formal approval which would allow the requirements of Condition 3 to be formally discharged.

Site and Surroundings

6. West Deeping is approximately 8.9km east of Stamford and 3.2km west of Market Deeping with the built up area of the village lying to the south of the A1175. King Street runs north from West Deeping and forms a crossroads with the A1175. The application site is 51 hectares in area and is generally flat agricultural land lying immediately to the east of King Street. To the north lies the Greatford Cut (a substantial land drain) and to the south a substantial electricity substation. To the west of King Street are the existing operations and plant site associated with West Deeping Quarry (operated by Tarmac). The nearest residential property (Lodge Farm) is located adjacent to the sites eastern boundary with a further property (Rectory Farm) located approximately 300m to the east. The adjoining land to the proposal site is progressively being quarried for sand and gravel by Tarmac. The other nearest residential properties to the proposed revised site plant location are situated to the north of West Deeping Village and are located approximately 300m to the south on the opposite side of the A1175.
7. The site is accessed via a new entrance that has been constructed onto King Street in accordance with an approved S278 Highways Agreement. Operations have commenced within the site insofar as soils have been stripped from part of the site and bunds have been partially constructed along the eastern and southern boundary.

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. The main policies/statements set out in the NPPF which are relevant to this proposal are as follows (summarised):

Paragraph 17 - seeks to secure a good standard of amenity for all existing and future occupants of land and buildings.

Paragraph 109 - seeks to conserve and enhance the natural environment.

Paragraph 120 - seeks to prevent unacceptable risks from pollution and protect general amenity.

Paragraph 123 - seeks to prevent adverse impacts as a result of noise pollution.

Paragraph 142 - recognises the importance of minerals reserves and the need to make best use of them.

Paragraph 144 - sets out a series of criteria to be taken into account when determining applications for minerals development, including ensuring that there are no unacceptable adverse impacts on the natural and historic environment and human health and that the cumulative effects from multiple individual sites are taken into account; ensure that any unavoidable noise, dust and particle emissions are controlled and mitigated and establish noise limits for extraction in proximity to noise sensitive properties; and provide for restoration and aftercare at the earliest opportunity to high environmental standards.

Paragraphs 186 and 187 – 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.

Paragraphs 215 and 216 - state that 12 months after the publication of the NPPF (2012) due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF, with the closer the policies in the plan to the policies in the NPPF, the greater the weight that may be given. Weight may also be given to relevant policies contained within emerging plans with greater weight being afforded to taking into account their stage of preparation and/or the extent to which there are unresolved objections to relevant policies.

Local Plan Context

9. **Lincolnshire Minerals & Waste Local Plan: Core Strategy and Development Management Policies (CSDMP) (2016)** – this document was formally adopted on 1 June 2016 and as a recently adopted document the policies contained therein should be given great weight in the determination of planning applications. The key policies of relevance in this case are as follows (summarised):

Policy DM1 (Presumption in Favour of Sustainable Development) states that when considering development proposals, the County Council will take a positive approach. 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) states that planning permission will be granted for minerals and waste development provided that it does not generate unacceptable adverse impacts to occupants of nearby dwellings or other sensitive receptors as a result of a range of different factors/criteria (e.g. noise, dust, vibrations, visual intrusion, etc).

Policy DM17 (Cumulative Impacts) states that planning permission will be granted for minerals and waste developments where the cumulative impact

would not result in significant adverse impacts on the environment of an area or on the amenity of a local community, either in relation to the collective effect of different impacts of an individual proposal, or in relation to the effects of a number of developments occurring either concurrently or successively.

Policy R1 (Restoration and Aftercare) states the proposals must demonstrate that the restoration of mineral workings will be of high quality and carried out at the earliest opportunity and accompanied by detailed restoration and aftercare schemes.

Policy R2 (After-use) states that proposed after-uses should be designed in a way that is not detrimental to the local economy and conserves and where possible enhances the landscape character and the natural and historic environment of the area in which the site is located. After-uses should enhance and secure a net gain in biodiversity and geological conservation interests, conserve soil resources, safeguard best and most versatile agricultural land and after-uses including agriculture, nature conservation, leisure recreation/sport and woodland. Where appropriate, the proposed restoration should provide improvements for public access to the countryside including access links to the surrounding green infrastructure.

South Kesteven Core Strategy (SKCS) (2010) - 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 of particular relevance (summarised):

Policy EN1 (Protection and Enhancement of the Character of the District) sets out a number of criteria against which all development proposals are required to be assessed including (amongst others) statutory, national and local designations of landscape features, including natural and historic assets; local distinctiveness and sense of place; the condition of the landscape; biodiversity and ecological networks within the landscape; visual intrusion; noise and light pollution, and; impact on controlled waters.

Emerging Local Plan Context

Site Locations Document (Pre-submission Draft) of the Lincolnshire Minerals and Waste Local Plan (November 2016) – this document sets out the proposed sites and areas that the Mineral Planning Authority proposes be allocated for future minerals and waste development. This document is to be submitted to the Secretary of State for formal Examination in April 2017. One of the site proposed for future sand and gravel extraction within this document comprises of an area of land located to the south of the A1175 and east of West Deeping Village (Site ref: MS29-SL). Although this site is proposed as a possible extension to the King Street development this is not expected to be delivered until around 2027.

Results of Consultation and Publicity

10. (a) Local County Council Member, Councillor T Trollope Bellew – who is also a member of the Planning and Regulation Committee will reserve his position until the application is heard by the Committee.
- (b) West Deeping Parish Council – has made a number of detailed comments including questioning the basis and justification for the proposed amendments and object on the grounds that the proposed relocation of the processing plant would have an adverse impact on the residents at the north end of West Deeping village. A summary of the main points/comments made is set out below:
- (i) Object to the application in its entirety as the applicant has not engaged in any pre-application discussions with the Parish Council.
 - (ii) Object to the proposed location of the plant site area as it would be 150m from the north end of the village and the closest possible position within the quarry site. The Parish Council is of the view that the location chosen would materially impact upon residents significantly and adversely resulting in a marked deterioration in their quality of life of a very long period of time.
 - (iii) The original consent received a number of objections from residents and the Parish Council and the existing approved location of the plant site area was agreed on the basis of these concerns. The applicant should not therefore be permitted to reverse the protection agreed previously by resident via this application.
 - (iv) In 2007 the applicant had previously stated that they were not proposing to erect a processing plant within the site and instead would haul extracted minerals to Manor Pit, Baston. The applicant should not therefore now be allowed to reverse this position and the Parish Council argues that if operations are to continue then minerals should continue to be hauled to Manor Pit, Baston.
 - (v) The Parish Council questions whether a Section 73 application is an appropriate procedure for CEMEX to seek the amendments sought. Although the Planning Officer has advised that this is appropriate, it is requested that the Committee ascertain that this is correct and seek formal external advice if necessary.
 - (vi) Land to the south of the A1175 and east of West Deeping village is currently being promoted through the Site Locations Document as an extension to the King Street site (Site MS29-L). Minerals extracted from this site are likely to be conveyed to the King Street site for processing and therefore the Parish Council argues that

the proposed amendments sought by this application should not be approved as it does not take into account the probable extraction site and their cumulative impacts on the West Deeping residents.

- (vii) There are three separate accesses onto King Street within a distance of 400m from the King Street/A11756 junction. Appropriate risk assessments and controls should be considered for this dangerous area.
- (c) Environment Agency – no objection.
- (d) Highway & Lead Local Flood Authority (Lincolnshire County Council) – no objection.
- (e) Natural England (NE) – has confirmed that the proposals would not have a significant adverse impact on designated sites and therefore has no objection.
- (f) Public Rights of Way (Lincolnshire County Council) – has confirmed that the proposal does not affect any definitive public rights of way.

The following persons/bodies were notified/consulted on the application but no response had been received within the statutory consultation period or by the time this report was prepared.

County Council Member, Councillor P Robinson (adjoining area)
Tallington Parish Council (adjoining Parish)
Barholm & Stowe Parish Council (adjoining Parish)
Langtoft Parish Council (adjoining Parish)
Environmental Health Officer (South Kesteven District Council)
Lincolnshire Wildlife Trust.

- 11. The application has been publicised by notices posted at the site and in the local press (Peterborough Evening Telegraph on 2 February 2017) and letters of notification were sent to the nearest neighbouring residents to the site.
- 12. Two letters have been received. One letter complains about mud on the public highway arising from the existing quarrying operations and another has been received from the nearest resident living to the site (Lodge Farm). This letter states that whilst it is accepted that the permission cannot be revoked, this application gives an opportunity to redress previous failures to impose sufficient and satisfactory operating conditions to reduce the impacts on residents in particular relating to noise limits and prevention of dust. The comments received relate to three main areas/points which are summarised below.

Noise: in order to achieve compliance with the recommended lower noise level limit as promoted in current Planning Practice Guidance (e.g. existing

background + 10dB) rather than the higher acceptable level of 55dB, it would be necessary to construct a 5m high bund over a length of 750m down the eastern side of the site. The applicant has argued that as noise level limits are currently unrestricted then to require the applicant to now comply with the lower figure would place an unreasonable burden on the operator and not be beneficial to the Lodge Farm inhabitants. This view is disputed as such a bund would be welcomed and could be constructed using as-raised mineral which could then be recovered and processed during site restoration. It is therefore argued that a 5m bund should be sought and secured in considering the current revised proposal and this should be a minimum of 500m in length.

Dust: the measures proposed within the submitted dust monitoring scheme are generally acceptable but it requested that a speed limit of 10mph is implemented within the site.

Bagging plant: it is suggested that the bagging plant be required to be removed no later than six months following the final cessation of mineral extraction operations and that only minerals extracted at the site should be used in its operations. Conditions could be imposed to prohibit the importation and processing of mineral derived from other site at the site.

District Council's Recommendations

13. South Kesteven District Council were consulted on 11 January 2017 but no comments/response had been received within the statutory consultation period or by the time this report was prepared.

Conclusion

14. Although the applicant could continue to carry out the development in accordance with the current conditions, instead a number of revisions are sought to the development. Therefore the applicant is seeking to vary the conditions attached to the consent in order that these amendments are reflected in the details referenced or approved by those conditions.
15. West Deeping Parish Council has questioned whether the proposed amendments are capable of being considered by way of a Section 73 application - especially as previous variations to the permission/conditions have been made because, at the time, the applicant had indicated that they were not proposing to erect a processing plant within the site. Whilst the comments made by the Parish Council are noted, Officers are satisfied that the proposed amendments are capable of being handled by way of a Section 73 application and therefore this application is valid. Although in 2007 the applicant had not intended to erect a processing plant within the King Street site, none of the conditions imposed on the amended 2007 consent actually removed the ability or rights for applicant to erect one in the future should this be required. The current application is seeking to allow amendments to be made principally to the design and location of the previously approved processing plant and silt lagoon as well as providing

further details of ancillary buildings and infrastructure within the site. Consequential amendments to the site layout and plans approved by the original consent are therefore required however the changes would not materially change the principle use or operations permitted to take place, the extent or nature of the method of working and restoration proposals or result in changes that would require a separate or wholly new planning permission. Furthermore the application has been considered against the relevant criteria of the EIA Regulations 2011 and a 'screening opinion' undertaken which confirms that the proposed amendments are not such that they are likely to give rise to significant effects and therefore require an EIA to be undertaken. Consequently, your Officers are satisfied that the application is valid and a Section 73 application is an appropriate method by which the proposed amendments can be sought.

16. In terms of the need and basis for the proposed amendments, these have arisen following a review of the details previously approved as part of the development. The amended and additional details submitted as part of this application intend to provide greater clarity over the type of processing plant to be installed at the site as well as further details of the various ancillary buildings and infrastructure which were not previously provided or detailed in the original application. Additionally, the proposed alterations to the site layout, including repositioning of the processing plants location, would enable greater integration between the various activities and deliver operational efficiencies such as reducing the haulage distances between the processing plant site and bagging plant facility and the distance waters would need to be pumped to and from the approved lagoon to the processing plant. Although the Parish Council has suggested that the revisions to the plant site location should be considered in the context of the potential to support future workings on the opposite side of the A1175 and to the east of West Deeping (currently being promoted as part of the emerging Site Locations document) your officers are satisfied that the proposed amendments can, and should rightly be, considered in the context of the existing permitted development at the King Street site which is capable of being carried out independent of any potential future proposals. The proposed future workings currently being promoted through the Site Locations document have yet to be formally accepted and adopted and therefore it is not considered reasonable or necessary to delay the determination of this application especially as the proposed amendments sought are considered to be beneficial and acceptable when considered in the context of the existing approved development. Therefore Officers see no reason why the proposed changes cannot be considered at this time and therefore a reason to delay or withhold the determination of this application.
17. In terms of the proposed revised and repositioned processing plant site area, it is accepted that the relocation of this to the southern end of the site would bring those operations closer to the properties located towards the north of West Deeping village (on the opposite side of the A1175). However, whilst the objections and concerns raised from the Parish Council about potential increased noise impacts on those residents are noted, these concerns are considered to be unfounded and are not supported by the

findings or conclusions of the noise assessment which has been carried out in support of this application.

18. The submitted noise assessment has considered the potential noise levels arising from temporary operations (i.e. soil stripping, bund formation, etc) as well as from normal operations including sand and gravel extraction, operation of the processing plant and new bagging plant activities on these properties. The assessment demonstrates that the resultant noise levels at these properties, and at Lodge Farm (the nearest property to the site), would fall within the maximum acceptable noise level limits of 70 dB LAeq for temporary operations and 55 dB LAeq for normal operations which is in line with those levels prescribed in National Planning Practice Guidance (PPG) and therefore Officers are satisfied that the revised development would not have an unacceptable advise noise impact on those residents. Furthermore, although a local resident has suggested that the lower noise level limit promoted in the PPG should be sought and applied (e.g. background level +10dB), in this case, this is not considered appropriate or reasonable for two main reasons.
19. The first reason is because in order to achieve the lower noise level limit promoted by the PPG a substantial bund would have to be erected along the eastern boundary of the site. To construct a bund of such a height (5m) and length (750m) would not only itself be an incongruous feature within the local landscape but would also likely require substantial changes to be made to the method of working in order to accommodate a bund with such a lateral footprint. A bund of this size so close to the property would also be imposing and have a negative impact on the outlook of the residents of Lodge Farm. Whilst the current occupier of this property has indicated that they would be willing to accept such a bund, ownerships can change and the Mineral Planning Authority have to consider protecting the interests of all residents (including future residents) living close to a development. For these reasons, a bund of this size and scale is not considered appropriate.
20. Secondly, whilst it is proper and right for Mineral Planning Authorities to seek to impose the lower limit promoted in the PPG when considering proposals for new mineral workings, in this case the current planning permission is unrestricted in terms of any noise control or condition. Consequently, the current fall-back position is a mineral development with no noise level control and whilst this is not common or in line with modern practice it is nevertheless lawful in this case. This application therefore presents the Mineral Planning Authority with an opportunity to try and redress this situation and to impose conditions to gain greater control over this aspect of the development. Given that the noise assessment has been able to demonstrate that the resultant noise levels from the site would fall within the higher acceptable limit as promoted by the PPG, then the development would be capable of being carried out in line with the current and latest guidance and therefore it would not be reasonable or justified to refuse the proposed amendments on that basis.

21. Finally, in response to the comments made by the Parish Council regarding the lack of pre-application engagement from the applicant, it should be noted that pre-application engagement is not mandatory and whilst it is encouraged by Officers, it does not prevent an application from being considered. With regard the comments and concerns about the close proximity and number of entrances on King Street, it should be noted that the location of the quarry's site access along with its design and specification has already been approved and agreed as part of a S278 Agreement. No changes are proposed to the general nature of the mineral extraction operations or the throughput of the site (as previously consented) and consequently no objections have been raised from the Highways Officer in this regard. Therefore the proposed revisions sought b this application would not exacerbate or result in any increased impact on highway safety over and above that which has already been deemed acceptable and for which measures have already been put in place to address (e.g. the construction of the site access and road widening).

Final Conclusion

22. In summary, it is considered that the proposed alterations to the site layout, including the relocated plant site, additional ancillary buildings, revisions to the freshwater and silt lagoons would not have a detrimental impact on the surrounding environment. The proposed changes would not result in any increased adverse visual or noise impacts over and above the existing consented development and the changes proposed would not undermine or significantly change the scale or nature of the method of working or restoration proposals for the site. As part of this application, it has also been possible to seek further clarity and control over elements of the development which were are currently secured as part of the consent and therefore would offer greater control over the site operations and ensure that they operate in line with more modern working practices.
23. Having taken into account all of the above, it is therefore concluded that the proposed amendments are acceptable and would not be contrary or conflict with the objectives of Policies DM1, DM3, DM17 and R1 and R2 of the CSDMP and Policy EN1 of the SKCS.
24. Finally, although Section 73 applications are commonly referred to as applications to “amend” or “vary” conditions they result in the grant of a new planning permission. Therefore, and for clarity and the avoidance of any doubt, it is recommended that the decision notice be issued with a comprehensive set of conditions which reflect and consolidates those cited on the various previous permissions and which updates and (where relevant) removes any which are no longer subsisting or capable of taking effect.
25. The proposed development has been considered against Human Rights implications especially with regard to Article 8 – right to respect for private and family life and Protocol 1, Article 1 – protection of property and balancing the public interest and well – being of the community within these

rights and the Council has had due regard to its public sector equality duty under Section 149 of the Equality Act 2010.

RECOMMENDATIONS

That planning permission be granted subject to the following conditions:

1. This permission (being granted under Section 73A of the Town and Country Planning Act 1990, as amended) has effect from the date of this decision notice as the development subject of planning permission S81/1588/89 (as amended by permissions S/0787/01 and S81/1112/07) has been implemented and therefore commenced.
2. The site shall be worked and restored in accordance with the following documents and plans unless otherwise modified by the conditions attached to this planning permission or details subsequently approved pursuant to those conditions. The approved documents and plans are as follows:
 - Statement in Amplification dated September 1989 and Report on the Soils and Agricultural Land Classification dated October 1989 as amended by the Revised Working and Restoration Scheme dated November 1995 and letter of clarification dated 24 November 1995 and details contained within the Planning Statement entitled 'S73 Application for Variation of Conditions 2, 10, 11 of S81/1588/89 and Discharge of Conditions 2 and 3 of S81/1112/07' dated December 2016.
 - Drawing No. 16_C033_WTDP – Site Plan (received 7 December 2016)
 - Drawing Nos. 16_P169_WD_001 to WD_0020 – Method of Working (received 7 December 2016)
 - Drawing P1/1425/4/8 - Final Restoration (received 7 December 2016)
 - Drawing No. 16_C033_WTDP-009 Rev.O – Aggregate Plant Layout and Traffic Management Plan (received 7 December 2016)
 - Drawing No. 16_C033_WTDP-010 Rev.O – Site Plan (received 7 December 2016)
 - Drawing No. 16_C033_WTDP-011 Rev.O – Elevation Through Aggregate Plant (received 7 December 2016)
 - Drawing No. 1611_P245_D_PWJ_B – Sections Through Bund (received 9 February 2017)
 - Drawing No. 1611_P246_D_PWJ_D – Section Locations (received 7 December 2016)
 - Drawing No. P1/1425/6 - Base of Mineral Contours (received 2 October 1995)
 - Drawing No. P1/1425/7 - Mineral Isopachyte Contours (received 2 October 1995)
 - Drawing P1/1425/11/3 - Advance Planting (received 7 November 1995)
 - Drawing No. 16_C033_WTDP_004 – Office/Weighbridge (received 7 December 2016)

- Drawing No. 16_C033_WTDP_005 – Canteen (received 7 December 2016)
 - Drawing No. 16_C033_WTDP_006 – Changing Room (received 7 December 2016)
 - Drawing No. 16_C033_WTDP_007 – Weighbridge Details (received 7 December 2016)
 - Drawing No. 16_C033_WTDP_008 – Bagging Building (received 7 December 2016).
3. No operations authorised or required under this permission shall be carried out except between the following times other than with the written consent of the Mineral Planning Authority:-
- 07:00 hours to 17:00 hours Monday to Friday
07:00 hours to 12:00 hours Saturday
- and no such operations shall be carried out on Sundays or Bank Holidays.
4. In addition to the details required and by Condition 13, the advanced planting as shown on Drawing No. P1/1425/11/3 (received 7 November 1995) shall be retained and all future hedgerow, tree planting and soft landscaping to be undertaken as part of the development shall be carried out in accordance with the sequence/phasing as set out in the RMC letter dated 19 November 2007 (as previously approved by the Mineral Planning Authority pursuant to Condition 4 of permission S81/1588/89) and Drawing No. P1/1425/4/8 (received 7 December 2016). All trees, shrubs and bushes shall be adequately maintained for the period of 10 years beginning with the date of completion of the scheme and during that period all losses shall be made good as and when necessary.
5. All screening bunds shall be 3m in height and constructed in accordance with the details as shown on Drawing Nos. 1067-P169-WD-001 to 1067-P169-WD-020 (received 7 December 2016) and Drawing No. 1611_P245_D_PWJ_B (received 9 February 2017).
6. Unless otherwise agreed in writing by the Mineral Planning Authority all archaeological works undertaken as part of the development shall continue to be undertaken in accordance with the requirements previously approved and secured as part of the existing S106 Planning Obligation dated 24 September 1997.
7. The dust mitigation and monitoring measures as identified in the document entitled “Dust Monitoring Scheme” (received 7 December 2016) shall be fully implemented and all operations shall be carried out in accordance with this scheme throughout the course of the development.
8. No stockpiles of extracted and processed sand and gravel shall exceed 9 metres in height.

9. With the exception of the plant, machinery and buildings already approved as part of the development (as referenced in Condition 2) and notwithstanding the provisions of Schedule 2, Part 17 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) no plant, machinery, buildings or equipment shall be erected or stationed on the site without the prior approval of the Mineral Planning Authority.
10. The site access, car parking and internal and vehicular turning and circulation areas as shown on Drawing No. 16_C033_WTDP-009 Rev.O (received 7 December 2016) and shall be kept available for use and swept or otherwise cleaned to prevent the accumulation of mud, dirt or debris whilst ever the development hereby permitted subsists.
11. During temporary operations, which includes soil stripping, overburden removal and the construction of overburden mounds/screening bunds, noise levels shall not exceed 70dB LAeq (1 hour, free-field) at any noise sensitive property.
12. Except for temporary operations, noise levels emitted from the site associated with the winning and working of minerals shall not exceed 55dB LAeq (1 hour, free-field) at any noise sensitive property.
13. No extraction operations shall commence within Phase 2 as shown on Drawing Nos. 1607_P169_WD_001 to WD_0020 until details of the additional temporary screen embankments to be erected around the archaeological area and northern boundary of the plant site area, along with details of infill and advanced planting on the western boundary of the site, have first been submitted and approved in by the Mineral Planning Authority. Following the approval of those details the additional screen embankments shall be constructed and the infill and advanced planting shall be undertaken prior to the commencement of extraction operations within Phase 2. All infill and advanced planting shall thereafter be adequately maintained for the period of 10 years beginning with the date of completion of the scheme and during that period all losses shall be made good as and when necessary.

Reasons

1. To comply with Section 73A of The Town and Country Planning Act 1990 (as amended).
- 2 & 9
To ensure the development is carried out in accordance with the details contained and approved within the original application and to ensure that the Mineral Planning Authority can adequately control the development to minimise its impacts on the amenities of the local area.
3. To reflect the permitted hours of operation and protect the amenities of local residents.

4, 5 & 8

In accordance with the details previously approved by the Mineral Planning Authority dated 19 January 1998 pursuant to permission S81/1588/89.

6. To ensure the archaeological interests of the site are adequately recorded in accordance with the requirements and details previously approved by the Mineral Planning Authority and secured as part of the accompanying S106 Planning Obligation.

7. To minimise the disturbance from operations and avoid nuisance to local residents from the effects of dust.

10. To ensure that the means of access to the site and vehicular circulation and parking spaces are provided in the interests of highways safety.

11 & 12

To minimise the disturbance from operations and avoid noise nuisance to local residents.

13. To improve the existing level of visual screening around the site so as to minimise the impact of the mineral extraction operations on the surrounding area.

Informatives

Attention is drawn to:

The development authorised by this permission is also subject of a Section 106 Planning Obligation dated 24 September 1997 and therefore should be read in conjunction with that agreement.

Appendix

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

Background Papers

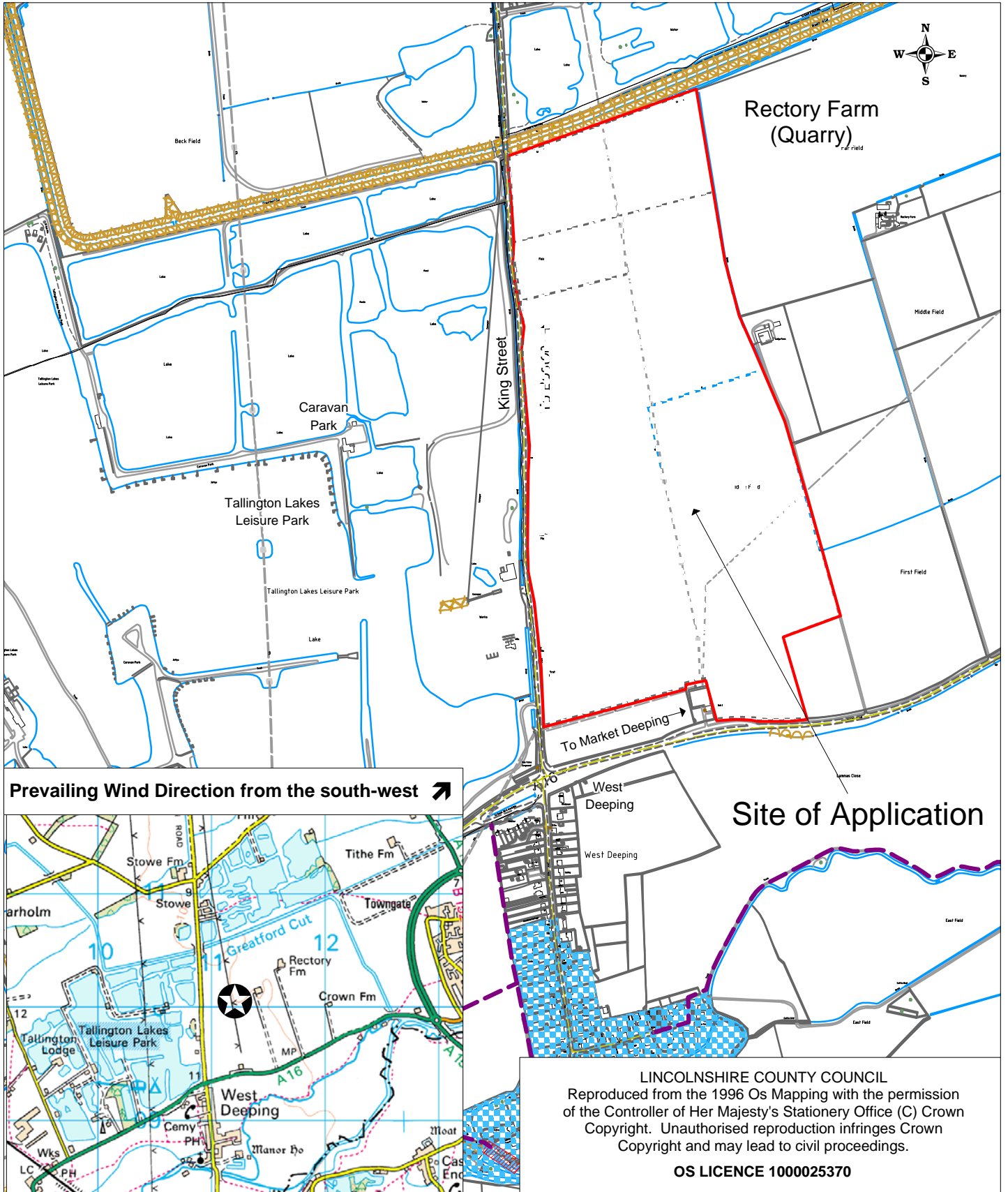
The following background papers as defined in the Local Government Act 1972 were relied upon in the writing of this report.

Document title	Where the document can be viewed
Planning Application File S81/0053/17	Lincolnshire County Council, Planning, Witham Park House, Waterside South, Lincoln
National Planning Policy Framework (2012)	The Government's website www.gov.uk
Lincolnshire Minerals & Waste Local Plan: Core Strategy and Development Management Policies (CSDMP) (2016) Site Locations (Pre-submission Draft) November 2016	Lincolnshire County Council website www.lincolnshire.gov.uk
South Kesteven Core Strategy (SKCS) (2010)	South Kesteven District Council website www.southkesteven.gov.uk

This report was written by Marc Willis, who can be contacted on 01522 782070 or dev_planningsupport@lincolnshire.gov.uk

LINCOLNSHIRE COUNTY COUNCIL

PLANNING AND REGULATION COMMITTEE 6 MARCH 2017



Location:
Land East of King Street
West Deeping
Lincolnshire

Application No: S81/0053/17
Scale: 1:10,000

Description:

To continue to extract sand and gravel without complying with conditions 2, condition 10 and condition 11 imposed by permission S81/1588/89 (as amended by permissions S81/0787/01 and S81/1112/07) together with the discharge of condition 2 and condition 3 of S81/1112/07.

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

Report to:	Planning and Regulation Committee
Date:	3 April 2017
Subject:	County Matter Application - B/0051/17

Summary:

Planning permission is sought by Biomass UK No. 3 Ltd (Agent: Power Consulting (Midlands) Ltd) to vary condition 3 of planning permission B/0435/16 to extend the range of permitted feedstock materials including the use of Refuse Derived Fuel (RDF) at Riverside Industrial Estate, Marsh Lane, Boston.

The key considerations in this case are whether the proposed alterations to the operation of the already approved plant changes the position of the operation up or down the waste hierarchy, whether the proposed use of RDF as a fuel would result in any potential increased emissions and/or whether this would increase potential odours.

Having taken into account the nature of the change proposed and the supplementary information and details submitted in support of this application, the revised development would not exacerbate or give rise to any new significant environmental or amenity impacts over and above those which have already been deemed acceptable and which could be mitigated by the imposition of planning conditions. As a result the proposed modification is considered acceptable and can be supported and the revised development would still accord with the objectives and principles of the cited policies of the National Planning Policy Framework, Lincolnshire Minerals & Waste Local Plan: Core Strategy & Development Management Policies, Boston Borough Local Plan and emerging policies of the South East Lincolnshire Local Plan.

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 for the construction of a gasification power station within the Riverside Industrial Estate, Boston was first granted in September 2010 (ref: B/0477/09). Since then a number of non-material amendments and subsequent Section 73 planning permissions and have been granted

which have varied conditions attached to the consents and allowed for changes to the development including changes to the site's layout, the position and design of some of the buildings and a reduction in the stack height of the chimney from 60m to 44m (refs: B/0387/14, B/0203/16 and B/0435/16).

2. The applicant is now seeking permission to allow the use of Refuse Derived Fuel (RDF) as a potential feedstock fuel by the gasification plant. This amendment would require a variation to an existing planning condition attached to the permission. Concurrent to this application a further application has been made for the installation of ancillary services and structures comprising a fire water tank, a fire water pump house, a diesel tank, an emergency generator, transformer and distribution network operator cabinet (ref: B/0046/17). The details of that proposal are subject of a separate report.

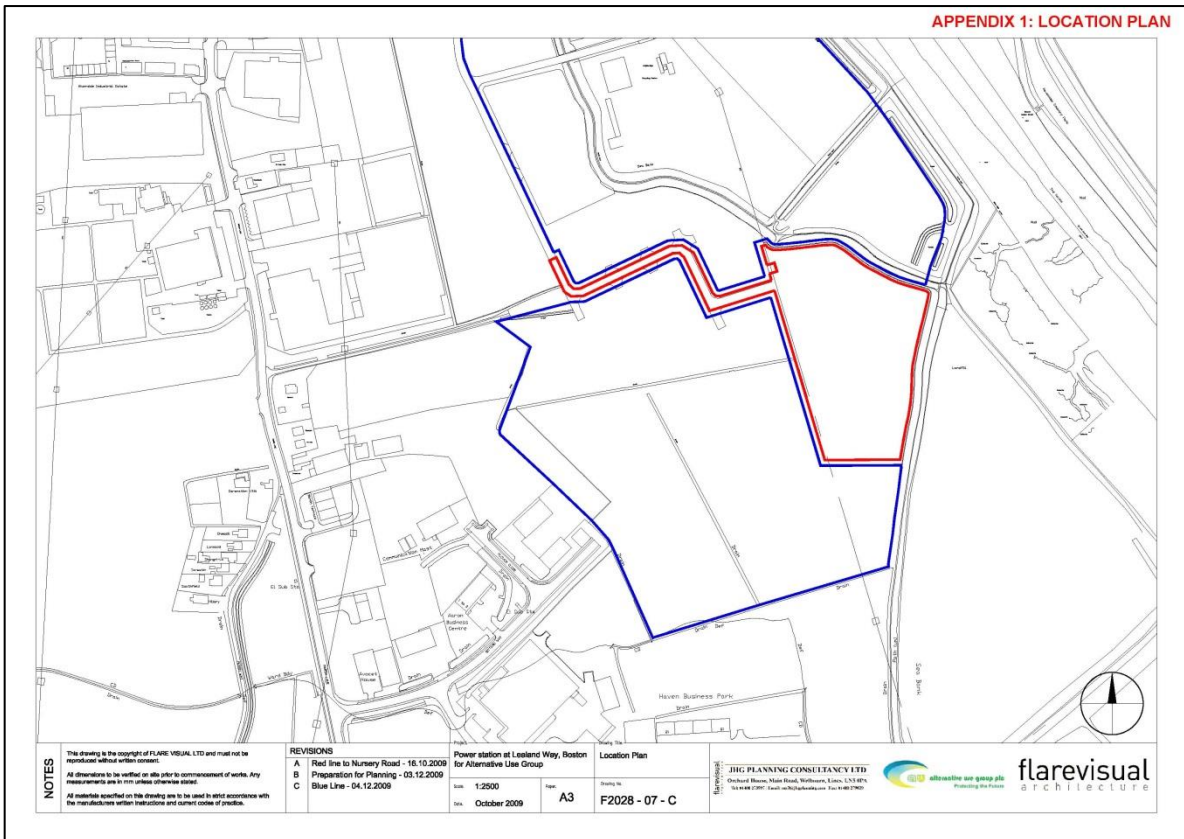
The Application

3. Planning permission is sought to vary condition 3 of planning permission B/0435/16 which relates to the gasification plant currently being constructed on Riverside Industrial Estate, Boston. Condition 3 presently reads as follows:

"The total quantity of feedstock materials permitted to be imported and utilised by the gasification plant shall not exceed 137,000 tonnes per annum. All materials brought to the site shall be weighed at a weighbridge within the site and weighbridge records shall be retained for at least two years and be available for inspection by the Waste Planning Authority upon request."

4. The applicant proposes to amend Condition 3 to read as follows:

"The total quantity of feedstock materials (waste wood and/or refuse derived fuel) permitted to be imported and utilised by the gasification plant shall not exceed 137,000 tonnes per annum. All materials brought to the site shall be weighed at a weighbridge within the site and weighbridge records shall be retained for at least two years and be available for inspection by the Waste Planning Authority upon request."



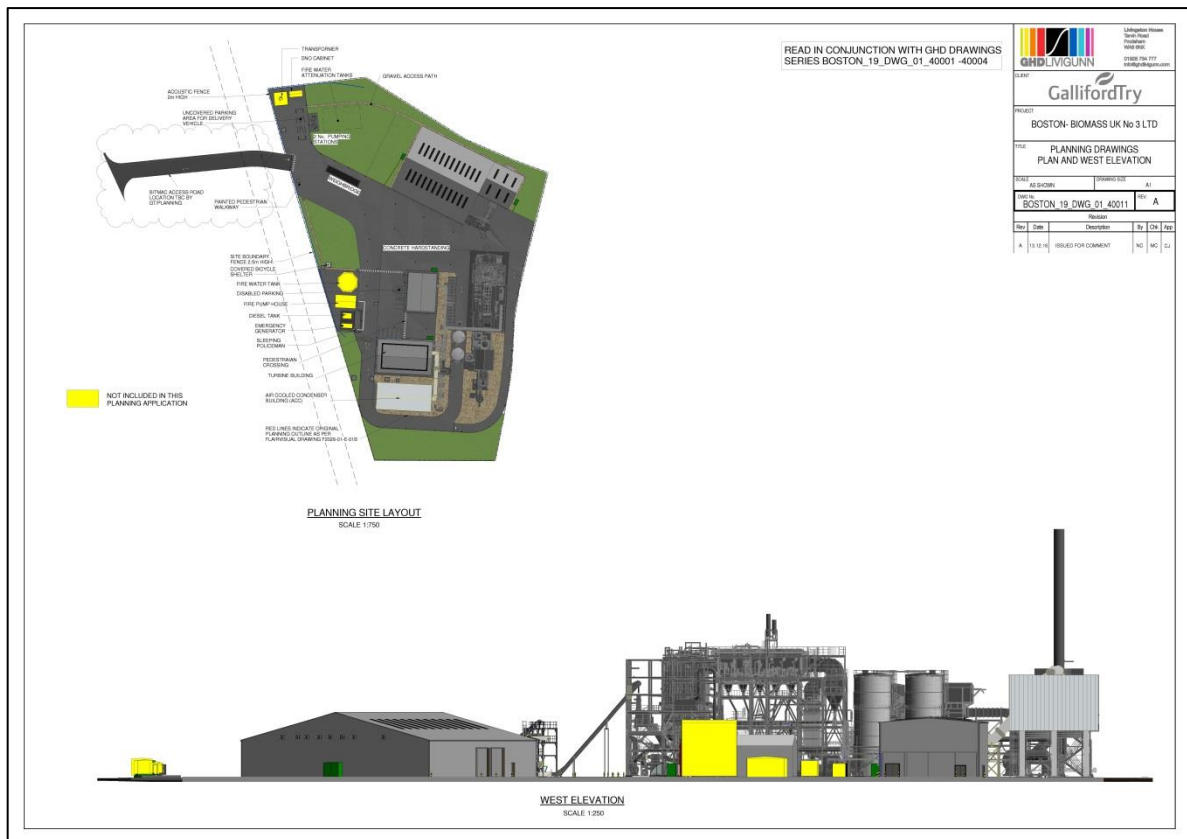
Location Plan

5. The applicant wishes to amend the wording of the condition in order to allow Refuse Derived Fuel (RDF) to be used as a potential feedstock fuel by the gasification plant. Currently the plant has been assessed on the basis that it would use waste wood only however the applicant is seeking to broaden the range of permitted feedstock types in order to improve long-term security of feedstock supply and ensure continuity of the plant operations across its planned lifetime (up to 25 years). The applicant therefore proposes that RDF be included as a potential feedstock material although it is stated that whilst this amendment would facilitate the use of RDF it would not mean that the plant would automatically switch to using RDF not least because it already has a long-term contract for the supply of waste wood.

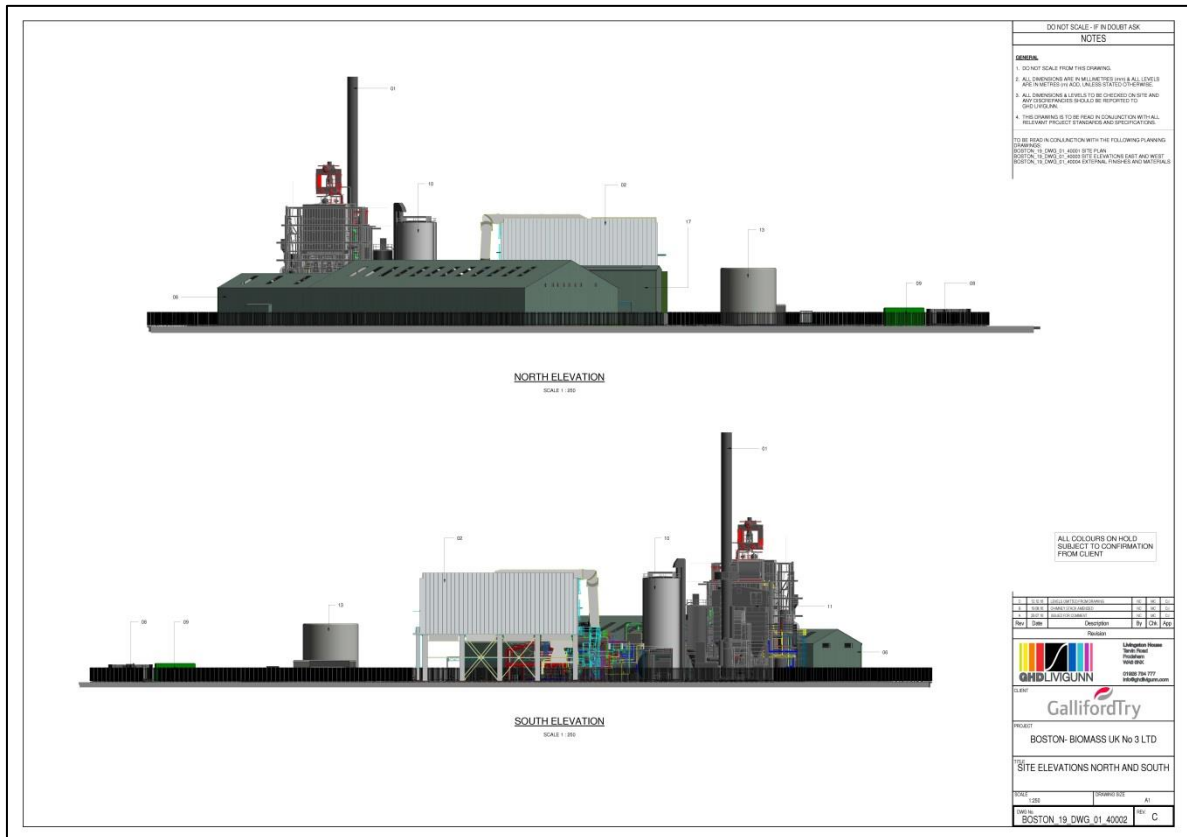
6. The application acknowledges that RDF has differing characteristics to waste wood in terms of its calorific value, fuel density and moisture content and so fluctuations can occur from time to time and consequently the tonnages of this particular feedstock may vary along with the frequency of deliveries. However, the applicant does not propose to increase the maximum number feedstock deliveries or annual tonnage cited by Condition 3 and all operations would still abide by the existing hours of operation. The existing emissions abatement system and flue stack height have also already been designed to allow for multiple fuels to be used including RDF. The Air Quality Assessment (already approved as part of the development) confirms that the emissions from the plant would remain within the Industrial Emission Directive (IED) emission limits despite the proposed change to the

feedstocks and therefore its conclusions remain valid and unchanged by this proposed amendment.

7. Given the proposed change to the feedstock materials, an Odour Impact Assessment has also been prepared and submitted in support of this application. This assessment has been undertaken as the materials/wastes used to create RDF can potentially be malodorous and so measures have been considered and identified to minimise and control potential odour impacts associated with their storage on site. The Odour Impact Assessment confirms that the RDF materials would be stored within the approved feedstock reception/storage building which would operate under negative pressure and have fast acting roller shutter doors with air curtains/knives which would ensure that odour emissions resulting from the storage of RDF are likely to be negligible and not have an adverse impact on any nearby sensitive receptors.



Plan and West Elevation



Site Elevations North and South

Site and Surroundings

8. The gasification plant site occupies an area of approximately 2.06 hectares located on land south of the Riverside Industrial Estate, Boston. The site forms part of a larger area of land that has been allocated for employment (industrial and commercial) development in both the currently adopted Boston Borough Local Plan 1999 and emerging South East Lincolnshire Local Plan (Draft 2016). The gasification plant is currently under construction although the remainder of the wider areas remains in agricultural use (although not cropped).
9. The site's northern and eastern boundaries are denoted by existing field drainage dykes/ditches which follow the alignment of the adjacent 'sea defence banks'. The banks are planted with a belt of mature trees/shrubs which help to screen and filter views of the site from the public footpaths which also trace the route along the top of these banks. A 'mud bank' associated with The Haven (a tidal watercourse) and the Havenside Local Nature Reserve are located beyond the easternmost corner of the proposal site.
10. Residential development is located beyond The Haven approximately 430m to the north-east of the site. There is also a small group of residential properties fronting onto Marsh Lane which lie approximately 490m to the west of the site. Land to the north and west of the site forms part of the wider Riverside Industrial Estate and is currently being used for a mixture of

industrial and commercial uses. To the south of the site lies Boston Landfill site (accessed via Slippery Gowt Lane) and the land immediately east of the site forms part of the landfill site (now restored).

11. Access to the site is gained via the Riverside Industrial Estate's existing road network and more specifically Nursery Road with a new section of road extending off Nursery Road providing access to the site.

Main Planning Considerations

National Guidance

12. 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 120 – new development should be appropriate for its location and not have adverse effects on the natural environment or general amenity.

Paragraph 122 – land use planning should focus on whether a development is an acceptable use of land and the impact of the proposed use, rather than the control of processes or emissions themselves where they are subject to approval under pollution control regimes.

Paragraph 123 – development should not give rise to significant adverse impacts on health and quality of life and mitigate and reduce to a minimum other adverse impacts such as noise.

Paragraphs 186 & 187 – decision-taking should be approached in a positive way to foster the delivery of sustainable development and where possible planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions in the area.

Paragraphs 215 & 216 – the status of Local Plans and policies and their consistency with the NPPF.

Adopted Local Plan Context

13. Lincolnshire Minerals and Waste Local Plan: Core Strategy and Development Management Policies (CSDMP) (2016) - as a recently adopted document the policies contained therein should be given great weight in the determination of planning applications. The key policies of relevance in this case are as follows (summarised):

Policy DM1 (Presumption in Favour of Sustainable Development) states that when considering development proposals, the County Council will take a positive approach. Planning applications that accord with the policies in this Local Plan will be approved without delay, unless material considerations indicate otherwise.

Policy DM2 (Climate Change) states that proposals for minerals and waste management developments should address the following matters where applicable:

- Minerals and Waste – Locations which reduce distances travelled by HCVs in the supply of minerals and the treatment of waste; and
- Waste – Implement the Waste Hierarchy and reduce waste to landfill.

Policy DM3 (Quality of Life and Amenity) states that planning permission will be granted for minerals and waste development provided that it does not generate unacceptable adverse impacts arising.

Policy DM17 (Cumulative Impacts) states that planning permission will be granted for minerals and waste developments where the cumulative impact would not result in significant adverse impacts on the environment of an area or on the amenity of a local community, either in relation to the collective effect of different impacts of an individual proposal, or in relation to the effects of a number of developments occurring either concurrently or successively.

14. Boston Borough Local Plan (BBLP) (1999) - in line with paragraph 215 of 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 'saved' policies are of relevance to this proposal:

Policy G1 (Amenity) is permissive and states that planning permission will only be granted for development which will not substantially harm general amenity considerations.

Policy G8 (Air and Soil Resources) states that planning permission will not be granted for development which will have an adverse effect upon the quality of air or soil such as to lead to harm to local living or working conditions or operation of nearby land-uses; harm natural flora and fauna of interest, and/or; added constraints on future developments in the area.

Emerging Local Plan Context

15. South East Lincolnshire Local Plan (SELLP) (Draft January 2016) - 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 took place between 8 January and 19 February 2016 and consultation on a final version of the plan is expected to be undertaken in April 2017. The policies contained within the draft plan currently carry little weight in the

determination of planning applications given its early stage of preparation however the key policies 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 28 (Climate Change and Renewable Energy and Low Carbon Energy) states that development of renewable energy equipment, associated infrastructure and the integration of decentralised technologies on existing or proposed structures will be permitted provided, individually, or cumulatively, there would be no demonstrable harm to: visual amenity; residential amenity in respect of: noise, fumes, odour, vibration, shadow flicker, broadcast interference, traffic; highway safety (including public rights of way); nature conservation, agricultural land take, landscape character or quality, or skyline considerations and aviation and radar safety.

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.

16. The Site Locations Document (Pre-submission Draft) of the Lincolnshire Minerals and Waste Local Plan sets out the preferred sites and areas for future minerals and waste development. Public consultation on this draft plan was undertaken between 7 November and 19 December 2016 and the final version of this document is expected to be submitted to Secretary of State in April 2017. The policies contained within the plan currently carry little weight in the determination of planning applications given its early stage of preparation however the key policies of relevance in this case are as follows:

Policy SL3 (Waste Site and Area Allocations) identifies the sites and areas that are proposed to be allocated and safeguarded for waste uses and states that applications for waste development on the sites identified within these areas will be permitted where the applicant can demonstrate that the proposal is in line with the Development Plan. The proposal site lies within the allocated area referred to as WA22-BO which has been assessed as a potential suitable location for broad range of open and enclosed waste facilities reflecting the nature of the established uses of the area and also the large area still available for development.

Results of Consultation and Publicity

17. (a) Local County Council Member, Councillor Austin – was notified of the application on 2 November 2016 but no response or comments had been received within the statutory consultation period or by the time this report was prepared.

- (b) Fishtoft Parish Council – no comments.
- (c) Highway & Lead Local Flood Authority – the proposed development is acceptable and accordingly does not wish to object to this planning application.

18. The following persons/bodies were consulted on 3 February 2017 but no response had been received within the statutory consultation period or by the time this report was prepared:

Wyberton Parish Council
Environmental Health Officer (Boston Borough Council)
Environment Agency

19. The application has been advertised by way of notices posted at the site and in the local press (Boston Standard on 8 February 2017) and letters of notification were sent to neighbouring businesses and persons who have previously commented on previous applications relating to this development.

20. Three representations have been received as a result of this publicity and a summary of the main comments/concerns and objections received are set out below:

- The reduced flue stack height and emissions from the plant would result in a degradation of local air quality and this would be exacerbated through the use of RDF adding to the health and environmental impacts across as a sensitive area and on the local population.
- Various reports confirm that the gasification of wastes can cause excessive emission hazards and produce dioxins and furans which are of particular concern. The site is located in a prime vegetable growing area and Wash fisheries and therefore concerns that these could enter the food chain creating potential health damage to the most vulnerable.
- Fine particle pollution is the most hazardous air pollutant with no safe level of exposure. Biomass content is known to create emissions inversion problems with fine particles mainly submicron allowing easy access to the bloodstream, the use of polluted RDF will automatically add to the hazard.
- Concerns that the use of RDF as a fuel source could discourage and result in a reduction in the rates of recycling. Recycling wastes can provide a 70% greater energy recovery saving than is produced in an EfW plant and is also a more sustainable practice. The impact of the EfW in North Hykeham has been significant on District Council recycling rates with some falling over 100 places nationally.
- Comments received contend that 80% of the waste wood to be used by the facility could be reused in agricultural or eco projects and that the use of wood in the provision of energy degrades air quality with health consequences. This can add billions of pounds to NHS costs and also there are questions over the CO₂ credentials of using wood as an alternative fuel.

- The gasification plant will require significant downtime and so cannot be relied upon for 24/7 power supply or to provide good quality heat and power.
- The applicant appears to be a new company and this raises concerns regarding historical experience and performance in the field of waste processing in the UK. It is argued that the poor record of gasification in the UK points to the need for serious scrutiny of any proposal for waste disposal processes especially regard to need, performance and impact.
- Objections received on the grounds that RDF can spontaneously combust and there have been fires associated with the storage of such wastes at other sites in Lincolnshire.
- RDF should be stored in a building and not outdoors.
- Another EfW/RDF burning plant is not required as there is already one in North Hykeham and this is having a job to get what it needs.
- Concerns about traffic associated with this development and the impacts of traffic on Boston.
- A series of questions/concerns have also been raised about how the site would be operated and managed including:
 - What measures would be in place to detect and control fires?
 - How would run-off be contained in the event of fire?
 - Would staff be appropriately qualified to operate and manage the site?
 - Can it be assured that the RDF would not contain wastes that contain carcinogenic, mutagenic or explosive materials?
 - How would emissions be monitored and odour inspections carried out?
 - Is there a traffic management plan?
 - Has a fire prevention plan been put in place?

District Council's Recommendations

21. Boston Borough Council – no objection.

Conclusion

22. This application is made under Section 73A of the Town and Country Planning Act 1990 (as amended) which allows for applications for planning permission without complying with the conditions to which a previous permission was granted. It creates a new permission, with a varied wording of condition(s), which the applicant can implement or ignore and does not amend any existing planning permission.
23. The key considerations in this case are whether the proposed alterations to the operation of the already approved plant changes the position of the operation up or down the waste hierarchy, whether the proposed use of RDF as a fuel would result in any potential increased emissions and/or whether the this would increase potential odours.

Waste Hierarchy

24. The current permission and development essentially allows the use of waste wood as a fuel and during the gasification process these wastes are converted to produce energy. This process is considered to be 'recovery operation' which means the waste is serving a useful purpose by replacing other materials which would otherwise have been used to fulfil a particular function (e.g. fossil fuel). The gasification plant is currently permitted to use waste wood only and this application proposes to expand the permitted feedstock types so as to include RDF.
25. In essence the proposed change to the feedstock materials does not matter so long as it is demonstrated that the envisaged facility would not undermine the waste planning strategy through prejudicing movement up the waste hierarchy. RDF is comprised typically of materials that cannot be recycled and therefore would otherwise be disposed of via landfill. Therefore the revised operation of this facility would still be recovery and thus there would be no change to the position of the existing site in terms of the waste hierarchy. On this basis the proposed changes are considered acceptable, subject to suitable controls to limit any additional pollution issues that might arise through the proposed feedstock.

Emissions

26. Objections have been received on the grounds that the introduction and use of RDF as a fuel could result in dangerous emissions and pose an increased risk both to the environment as well as local population. These concerns are noted however the potential impacts associated with emissions from the gasification plant have already previously been assessed as part of an Air Quality Assessment which supported both the original application and more recently the application which was granted and approved a reduction in the height of the flue stack. This same assessment has been resubmitted in support of this application and confirms that the emissions from the plant would remain within the Industrial Emission Directive (IED) emission limits despite the proposed change to the feedstocks types. The use of RDF as a potential fuel source would not impact upon the efficiency of the process or lead to issues in terms of the dispersal of emissions or concentration on pollutants/gases produced and therefore would not exacerbate or increase the impacts of the development over and above that already approved.
27. Although the Environment Agency has not provided comments on this particular application/proposal they have commented on previous applications and have consistently confirmed that in addition to any planning permission the development would also be subject of an Environmental Permit. Air emissions would be controlled by the Environmental Permit which would also include a range of other conditions and controls to regulate the day to day site management operations in order to ensure no significant pollution is caused. The NPPF makes clear that planning and pollution control systems are separate and advise that local planning authorities should not duplicate the functions of the statutory pollution control bodies in

regulating emissions. Consequently, whilst the pollution and planning system are complementary in many respects, the planning system should focus on whether the development itself is an acceptable use of the land rather than the control of processes or emissions themselves. Therefore although representations have been received which raise questions and concerns about how the site would be managed and how emission levels from the site would be monitored and controlled, I am satisfied that the site's Environmental Permit would ensure that appropriate mechanisms are in place to address these concerns.

Odour

28. As part of this application the applicant has submitted an Odour Impact Assessment which as it is recognised that RDF can be comprised of residual waste materials and therefore may potentially give rise to odours if not managed correctly. The Odour Impact Assessment confirms that the RDF would comprise of wrapped bales that would be stored within a building and not externally. The building, along with the mitigation measures to be installed as part of the building, would reduce the pathway for potential odours and the distance of the plant to the nearest residential properties and the historical weather data indicates that any odour impacts from the storage of these would be negligible. The methodology used for the assessment is considered correct and again the Environmental Permit issued by the Environment Agency would control odour emissions from the site.

Human Rights Implications

29. Finally, the proposed development has been considered against Human Rights implications especially with regard to Article 8 – right to respect for private and family life and Protocol 1, Article 1 – protection of property and balancing the public interest and well – being of the community within these rights and the Council has had due regard to its public sector equality duty under Section 149 of the Equality Act 2010.

Final Conclusions

30. Having taken into account the nature of the change proposed and the supplementary information and details submitted in support of this application, the revised development would not exacerbate or give rise to any new significant environmental or amenity impacts over and above those which have already been deemed acceptable and which could be mitigated by the imposition of planning conditions. As a result the proposed modification is considered acceptable and can be supported and the revised development would still accord with the objectives and principles of the cited policies of the National Planning Policy Framework, Lincolnshire Minerals & Waste Local Plan: Core Strategy & Development Management Policies, Boston Borough Local Plan and emerging policies of the South East Lincolnshire Local Plan.

31. Although Section 73 applications are commonly referred to as applications to “amend” or “vary” conditions they result in the grant of a new planning permission. Therefore, and for clarity and the avoidance of any doubt, it is recommended that the decision notice be issued with a comprehensive set of conditions which consolidates and (where relevant) recites the conditions attached to the existing planning permission and/or is updated to take into account any detailed submissions that were approved pursuant to conditions attached to the original consent.

RECOMMENDATIONS

That planning permission be granted subject to the following conditions:

1. This permission (being granted under Section 73A of the Town and Country Planning Act 1990, as amended) has effect from the date of this decision notice as the development subject of planning permission B/0435/16 has been implemented and therefore commenced.
2. The development hereby permitted shall only be carried out in accordance with the following documents and plans unless otherwise modified by the conditions attached to this planning permission or details subsequently approved pursuant to those conditions. The approved documents and plans are as follows:
 - Planning Application Form, Design and Access Statement (received 4 December 2009) and Environmental Impact Assessment (received 11 December 2009) which comprised of the following documents:
 - Environmental Noise Assessment by Acoustic Associates dated October 2009 (received 4 December 2009) as supplemented by the information contained in the letters from Acoustic Associates dated 18 March 2010 and 6 August 2010
 - Air Quality Assessment by Entran Ltd (received 23 January 2017)
 - Flood Risk Assessment (Version 4) by RM Associates dated December 2009 (received 4 December 2009) and addendum reference 02 (dated stamped received 6 November 2015)
 - Ecological Assessment by Adam Denard Ecology dated July 2009 (received 11 December 2009) as supplemented by the Water Vole Survey Report by Helen Scarborough Ecology dated May 2010 (received 10 June 2010)
 - Archaeological Desk-Based Assessment Report by Allen Archaeology Ltd dated February 2010 (received 19 March 2010) and Archaeological Evaluation Report by Archaeological Project Services dated May 2010 (received 10 June 2010)
 - Transport Statement by LDA (Civils & Transportation) Ltd dated 17 March 2010 (received 19 March 2010)
 - Odour Impact Assessment by Power Consulting Midlands Ltd (received 25 January 2017)
 - Dwg No. F2028-07-C: Location Plan (received 4 December 2009)

- Dwg No. BOSTON_19_DWG_01_40002 Rev.C: North and South Elevation (received 16 December 2016)
 - Dwg No. BOSTON_19_DWG_01_40011 Rev.A: Plan and West Elevation (received 16 December 2016)
3. The total quantity of feedstock materials (waste wood and/or refuse derived fuel) permitted to be imported and utilised by the gasification plant shall not exceed 137,000 tonnes per annum. All materials brought to the site shall be weighed at a weighbridge within the site and weighbridge records shall be retained for at least two years and be available for inspection by the Waste Planning Authority upon request.
 4. No tipping, storing, handling, sorting or processing of the feedstock waste materials shall take place outside the confines of the buildings approved for this purpose.
 5. Except as may otherwise be agreed in writing with the Waste Planning Authority, no HGVs are permitted to enter or exit the site associated with the delivery of waste feedstock materials and/or the export of the lightweight aggregate produced by the development's Accelerated Carbonation Technology plant except between the hours 07:00 and 19:00 hours Monday to Saturday (inclusive). No such deliveries or export activities shall take place on Sundays, Bank or Public Holidays.

Other than the above restrictions, the development hereby permitted may operate continuously 24 hours a day, 7 days a week with members of staff being present on-site at all times.

6. All buildings (excluding the Security Office and Office Building) shall be sound insulated in accordance with the specification and details that were previously submitted and approved by the Waste Planning Authority as referenced and set out in the decision letter dated 27 February 2012 (originally approved pursuant to Condition 6 of planning permission B/0477/09).
7. The rating level of noise emitted from the site shall not exceed the boundary noise levels/limits cited in Appendix 1 of the Acoustic Associates Ltd's letter dated 6 August 2010 when measured at the identified site boundary locations shown on Figure 1 which also supported the Acoustic Associates Ltd's letter dated 6 August 2010.
8. Within three months of the development becoming operational, a noise survey shall be undertaken to determine the rating level of noise emitted from the operations of the application site, in accordance with BS4142: 1997. This shall be carried out at the same or equivalent monitoring positions as outlined in Figure 1 of the Acoustic Associates Ltd's letter dated 6 August 2010 (defined by Condition 2). The results of the survey shall be forwarded to the Waste Planning Authority within one month of the survey being undertaken. Should the results of the noise survey suggest that further mitigation measures are necessary these shall be identified within

the report and implemented within one month following their approval by the Waste Planning Authority, unless minor variations are otherwise agreed in writing by the Waste Planning Authority.

9. The development hereby permitted shall not be brought into use until a 2 metre high acoustic fence has been erected around the site (as shown on Drawing No. BOSTON_19_DWG_01_40011 Rev.A). The acoustic and site security fencing shall thereafter be maintained and retained in a condition fit for purpose whilst ever the development hereby permitted subsists.
10. All vehicles, plant and machinery operated outside of the building shall be maintained in accordance with the manufacturer's specification at all times, and shall be fitted with and use effective silencers. Any breakdown or malfunction of silencing equipment or screening shall be treated as an emergency and should be dealt with immediately. Where a repair cannot be undertaken within a reasonable period, the equipment affected should be taken out of service.
11. All soft landscaping and planting associated with this development shall be implemented and maintained in accordance with the specification and details that were previously submitted and approved by the Waste Planning Authority as referenced and set out in the decision notice dated 2 April 2013 (originally approved pursuant to Condition 11 of planning permission B/0477/09).
12. Surface waters from the site and associated with this development shall be managed in accordance with the details and systems which were previously submitted and approved by the Waste Planning Authority as referenced and out in the decision notice dated 2 April 2013 (originally approved pursuant to Condition 12 of planning permission B/0477/09).
13. The flood protection and mitigation measures along with the Flood Evacuation Plan as identified and contained within the Flood Risk Assessment (defined by Condition 2) shall be fully implemented and carried out as part of the development and shall thereafter continue to be implemented whilst ever the development hereby permitted subsists.
14. Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound shall be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound shall be at least equivalent to the capacity of the largest tank, or the capacity of interconnected tanks, plus 10%. All filling points, vents, gauges and site glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets shall be detailed to discharge downwards into the bund.

15. The development hereby permitted shall not be brought into use until the means of vehicular and pedestrian access from Nursery Road has been laid out, hard surfaced, sealed and drained to the constructional specification as set out in the Transport Statement by LDA (Civils & Transportation) Ltd dated 17 March 2010 (as defined by Condition 2).
16. The development hereby permitted shall not be brought into use until the car parking areas and internal vehicular turning and circulation areas (as shown on Drawing No. BOSTON_19_DWG_01_40011 Rev.A) have been laid out, hard-surfaced, sealed and drained. The car parking area and internal and vehicular turning and circulation areas shall thereafter be kept available for use and swept or otherwise cleaned to prevent the accumulation of mud, dirt or debris whilst ever the development hereby permitted subsists.
17. Measures to avoid and compensate for the loss and impacts of the development on water vole habitat, including the creation of new and replacement habitat associated with the drainage ditch improvements, shall be fully implemented and carried out in accordance with the scheme and details previously submitted and approved by the Waste Planning Authority as referenced and set out in the decision notice dated 2 April 2013 (originally approved pursuant to Condition 17 of planning permission B/0477/09).
18. Before the development hereby permitted is brought into use bat boxes and bird nesting boxes shall be installed in accordance with the details previously submitted and approved by the Waste Planning Authority as referenced and set out in the decision notice dated 2 April 2013 (originally approved pursuant to Condition 18 of planning permission B/0477/09). The bat boxes and bird nesting boxes shall thereafter be maintained whilst ever the development hereby permitted subsists.
19. The means of connection to the National Grid shall be by underground cable.

Reasons:

1. To comply with Section 73A of The Town and Country Planning Act 1990 (as amended).
2. To define the permission and to ensure the development is implemented in all respects in accordance with the approved details.
- 3 & 4 To correspond with the quantities for which planning permission was applied for and to ensure the interests of the amenities of the area.
5. In the interests of general amenity of the area and to reflect the hours of operation applied for within the application.

6 – 10

To minimise the potential nuisances and impacts of noise arising from the development and to protect the amenity of local residents.

11. In the interests of visual amenity and to ensure that the species to be planted as part of the landscaping works reflect those which are characteristic of the local area.

12 – 14

To ensure the proper drainage of the site and treatment of surface waters, to prevent the risk of flooding both within and outside the site and to prevent the pollution of the water environment.

15 & 16

To ensure that the means of access to the site and vehicular circulation and parking spaces are provided in the interests of highways safety.

17 & 18

In the interests of nature conservation and to minimise disturbance and ensure the protection of breeding birds that may be nesting within the site.

19. In the interest of visual amenity of the area.

Appendix

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

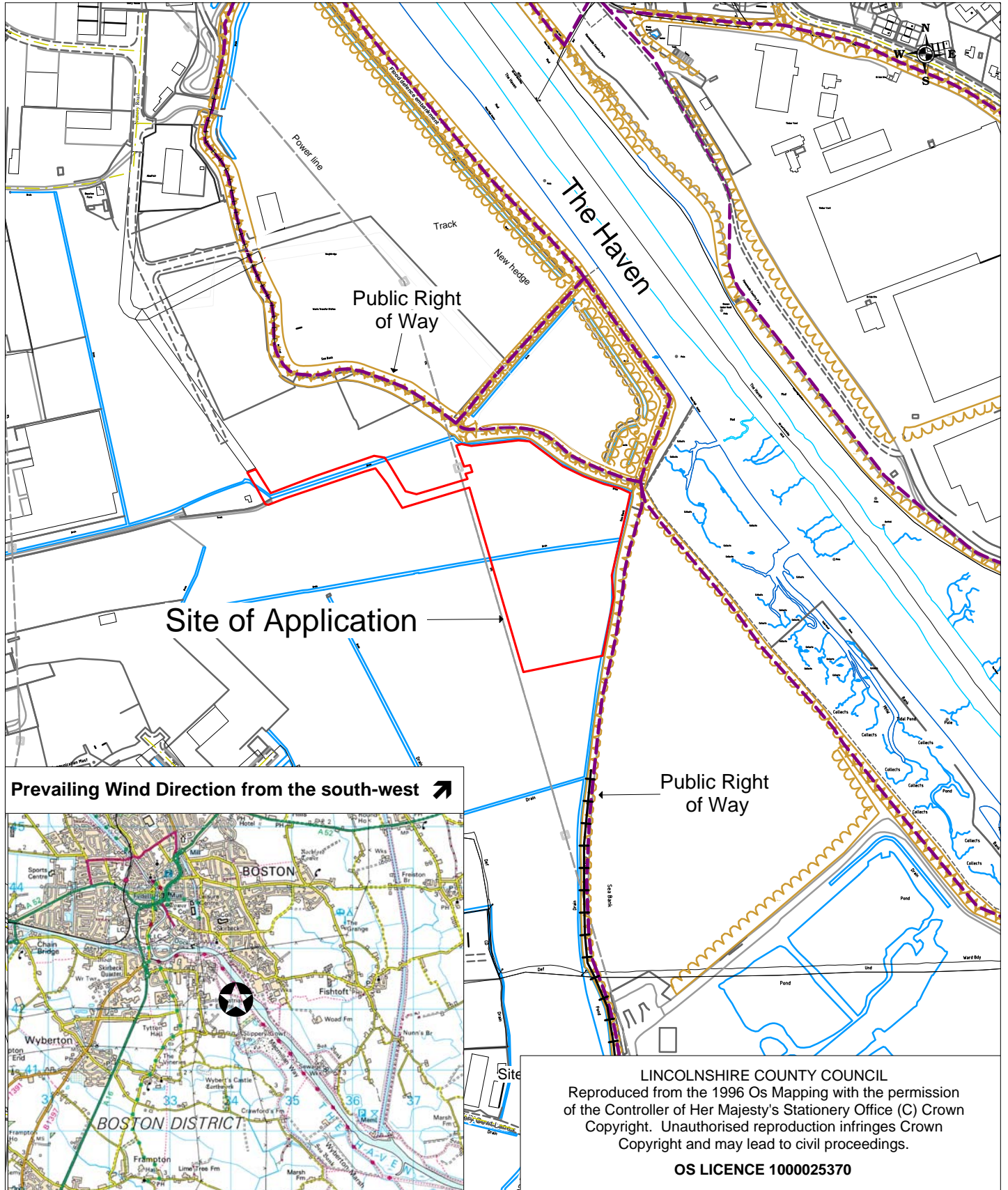
Background Papers

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 B/0051/17	Lincolnshire County Council, Planning, Witham Park House, Waterside South, Lincoln
National Planning Policy Framework (2012)	The Government's website www.gov.uk
Lincolnshire Minerals & Waste Local Plan: Core Strategy and Development Management Policies (CSDMP) (2016) Site Locations (Presubmission Draft) November 2016	Lincolnshire County Council website www.lincolnshire.gov.uk
Boston Borough Local Plan (BBLP) (1999)	Boston Borough Council website www.boston.gov.uk
South East Lincolnshire Local Plan (SELLP) (Draft January 2016)	South East Lincolnshire Joint Strategic Planning Committee website www.southeastlincslocalplan.org

This report was written by Marc Willis, who can be contacted on 01522 782070 or dev_planningsupport@lincolnshire.gov.uk

LINCOLNSHIRE COUNTY COUNCIL
 PLANNING AND REGULATION COMMITTEE 3 APRIL 2017



Location:

Riverside Industrial Estate
 Marsh Lane
 Boston

Application No: B/0051/17

Scale: 1:5000

Description:

To vary condition 3 of planning permission B/0435/16 to extend the range of permitted feedstock materials including the use of Refuse Derived Fuel (RDF)

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

Report to:	Planning and Regulation Committee
Date:	3 April 2017
Subject:	Revocation of Hazardous Substances Consent Order (No. 1) 2017

Summary:

The County Council is being requested to exercise its powers as the Hazardous Substance Authority to revoke three Hazardous Substances Consents (HSC) which relate to the Theddlethorpe Gas Terminal, St Helens, Mablethorpe, Lincolnshire LN12 1NQ.

The site has previously been subject of three HSCs which create a safeguarding zone around the facility and act as constraint to future development in and around the area. On 23 February 2016 a further HSC was granted (ref: (E)N180/2032/15) which consolidated the changes from the three older HSCs and aligned the site operations with the other major safety consent COMAH (Control of Major Accident Hazards). Following the grant of that consent, the applicant has requested that the County Council revoke the three older HSCs as they are no longer relevant and their existence poses as a significant planning constraint for future development.

Recommendation:

Following consideration of the relevant information it is recommended that the Planning and Regulation Committee authorise the making of the Order to revoke Hazardous Substance Consents refs: N180/1734/93; N/180/1013/96 and (E)N/180/665/99.

Site Location and Key Relevant History

1. The Theddlethorpe Gas Terminal is in close proximity to the resort town of Mablethorpe and the two villages of Theddlethorpe St Helen and Theddlethorpe St Peter. A public right of way runs adjacent to the site boundary and publicly maintained highway A1031 is 500 metres to the west and Kent Avenue 100 metres to the east. The nearest residential property is approximately 50 metres from the entrance to the Gas Terminal. In addition to the east are protected sites including European Wildlife Sites, Special Area of Conservation, Special Protection Area and SSSIs.

2. The Gas Terminal was originally granted planning permission over four decades ago and was commissioned in 1972 to receive and process Natural Gas by pipeline from the North Sea Oil and Gas Fields and distribute processed gas via the National Transmission System (NTS). Further permissions have been granted since, as the operations expanded. In 2016 a retrospective planning application (ref: (E)N180/1754/16) was submitted to the County Council to continue construction and installation of a refrigeration system to replace the existing refrigerant (Freon), which no longer met the standards laid down by the European legislation in respect of hydro chlorofluorocarbon (HCFC) and associated infrastructure with propane and associated infrastructure.

Existing Hazardous Substance Consents

3. There are currently four Hazardous Substance Consents (HSCs) applicable to the site. Two of the HSCs (refs: N180/1734/93 and N/180/1013/96) were issued by East Lindsey District Council who, at that time, were the Hazardous Substance Authority ("HSA"). The two other consents (refs: (E)N/180/665/99 and (E)N180/2032/15) were issued by Lincolnshire County Council. The most recent HSC (ref: (E)N180/2032/15) consolidated the changes from the three older consents and aligns with the other major safety consent COMAH (Control of Major Accident Hazards). Although the previous HSCs subject of this revocation request were issued by East Lindsey District Council (ELDC), the County Council has received written agreement and confirmation from the Planning Team Leader of ELDC that they are happy for the County Council ("the Council") to progress the revocation of these consents on their behalf.

Procedural matters

4. The legislation governing hazardous substances is the Planning (Hazardous Substances) Act 1990 ("the Act"). In addition to granting consent, Section 14 of the Act contains powers to revoke consents, recognising that there are instances where it is expedient to do so and thereby removing this development constraint or the risk of development constraint in the future. Section 14(1) allows for a HSA to revoke a consent, where they consider it expedient to do so, having regard to any material consideration.
5. It should be noted that any revocation will only take effect when it is confirmed by the Secretary of State ("SoS") pursuant to Section 15(1) of the Act.
6. The Hazardous Substance Consents (Appendix B) to be revoked are:
 - N180/1734/93 issued 25 January 1994 by East Lindsey District Council;
 - N/180/1013/96 issued 3 October 1996 by East Lindsey District Council;
 - and
 - (E)N/180/665/99 issued dated 3 November 1999 by Lincolnshire County Council.

7. Under Section 15(3) of the Act where a HSA submit an order under Section 14 to the SoS for his confirmation under this section, the authority shall serve notice of the order –
 - (a) On any person who is an owner of the whole or any part of the land to which the order relates;
 - (b) On any person other than an owner who appear to them to be in control of the whole or any part of that land;
 - (c) On any other person who in their opinion will be affected by the order.
8. Under Section 15(4) a notice under subsection 15(3) shall specify the period (which must not be less than 28 days from the service of it) within which any person on whom the notice is served may require an opportunity of appearing before and being heard by a person appointed by the SoS for that purpose.
9. In respect of legal implications, it should be noted that any revocation under Section 14(1) would be subject to Section 16 of the Act, that if on a claim made to the HSA within the prescribed time and in the prescribed manner, it is shown that any person has suffered damage in consequence of the order, the HSA shall pay compensation in respect of that damage.

Material Considerations and Planning Implications

10. The Council is being requested to exercise its powers as the Hazardous Substance Authority under Section 14(1) of the Act to revoke three hazardous substances consents at Theddlethorpe Gas Terminal. ConocoPhillips has indicated that the retention of all four consents would, from an operator's safety management regime, create an unacceptable conflict with the schedule of substances held at the site in respect of COMAH which forms part of the statutory function of the HSE. COMAH seeks to ensure that businesses "Take all necessary measures to prevent major accidents involving dangerous substances" so as to "Limit the consequences to people and the environment of any major accidents which do occur".
11. The revocation procedure is necessary in order to remove an overly restrictive safeguarding zone around the Theddlethorpe Gas Terminal which exists as a consequence of the cumulative effects of the four HSCs. When considering applications for future development in and around the Theddlethorpe Gas Terminal, Planning Authorities are required to consult the Health and Safety Executive ("HSE") who are the safeguarding authority and who make an assessment of the hazard and risk posed by the gas terminal to new developments using its methodology PADHI (Planning Advice for Development near Hazardous Installations). The assessment of risk produces a map with three risk contours (Inner, Middle and Outer) around the site which are used to determine whether a development would be acceptable taking into account its proximity to the site. The HSE indicated that prior to applying the new HSE Consultation Zones created as a consequence of the recent consolidated HSC (ref: (E)N180/2032/15) it

would be necessary for the HSA to revoke the older Hazardous Substance Consents as the retention of all four consents could prevent future development in a significantly wider area than currently applies.

12. As it stands the retention of all four existing HSCs could act as a constraint to types of development that would be considered sensitive uses close to gas terminals. Examples of such developments and uses include tourist and recreational facilities such as caravan parks, tourist attractions and outdoor activity centres which would all be subject and supported by the following policies of the East Lindsey Local Plan (1999):

Policy T2 - Main Coastal Holiday Areas;
Policy T3 - Holiday Service Centre;
Policy T7 - Main Tourist Attractions;
Policy T13 - Static Holiday Caravans;
Policy T14 - New Static Holiday Parks;
Policy T15 - Touring Caravan or Camping Sites; and
Policy REC9 - Countryside Recreation-outdoor.

Public Consultation and Views Expressed

13. This report seeks authorisation from the Council to enact the revocation procedure. There is no public consultation exercise required. However, it should be noted that if the Council resolves to authorise making the Order, the Act requires notice to be served on all interested parties for a period of at least 28 days. Should Members approve the recommendation this would be undertaken by Officers and require notification letters to be sent to all interested parties.
14. Officers have liaised with both the HSE and Theddlethorpe Gas Terminal operator ConocoPhillips (UK) Ltd regarding this revocation and the operator has confirmed that should the County Council apply to revoke the three previous Hazardous Substance Consents, then they would co-operate with the process and would not seek compensation from the Authority. ConocoPhillips (UK) Ltd has provided an undertaking to cover the Council's legal and administrative costs in making the Order and in the event that SoS directs the HSA to facilitate a formal hearing.

Process and Procedure

15. Should the Planning and Regulation Committee consider it necessary and expedient to commence the Revocation process, it would be necessary serve a notice on the site operator. At the same time any other interested parties, in this instance East Lindsey District Council, Health and Safety Executive and Environment Agency, would also be served notices as they are statutory authorities with an interest in site. There would then follow a 28 day consultation period in accordance with Section 15(3) of the Act.
16. The notice of the Revocation Order would simultaneously be forwarded to the SoS, together with any comments received during the consultation

process. Following the conclusion of the consultation process the SoS would either confirm the Order or a formal hearing could potentially be held should any person upon whom the notice is served requires an opportunity to appear before a person appointed by the SoS to consider their views on this matter. In the event of the latter the SoS would direct the County Council to facilitate a formal hearing.

Conclusion

17. The Council is being requested to exercise its powers as the Hazardous Substance Authority under section 14(1) of the Planning (Hazardous Substances) Act 1990 to revoke the following hazardous substance consents which relate to the Theddlethorpe Gas Terminal:
 - N180/1734/93 issued 25 January 1994 by East Lindsey District Council;
 - N/180/1013/96 issued 3 October 1996 by East Lindsey District Council; and
 - (E)N/180/665/99 issued dated 3 November 1999 by Lincolnshire County Council.
18. The planning benefit of revoking the Hazardous Substance Consents is that a significant planning constraint would not come into existence which would have had considerable impact on the viability of development around the Theddlethorpe Gas Terminal given its proximity to an important resort on the Lincolnshire coast.
19. It is therefore considered expedient to make the revocation order as the retention of the four consents would act as a barrier and prejudice the type of development subject to the following substantive policies of East Lindsey Local Plan (Alteration) 1999:

Policy T2 - Main Coastal Holiday Areas;
Policy T3 - Holiday Service Centre;
Policy T7 - Main Tourist Attractions;
Policy T13 - Static Holiday Caravans;
Policy T14 - New Static Holiday Parks;
Policy T15 - Touring Caravan or Camping Sites; and
Policy REC9 - Countryside Recreation-outdoor.
20. Additionally, in pursuance of 14(1) of the Act, there would be no liability for the payment of compensation through revoking the consents as the applicant has indicated that they would not seek compensation. ConocoPhillips (UK) Ltd has provided an undertaking to cover the Council's legal and administrative costs in making the Order and in the event that SoS directs the HSA to facilitate a formal hearing.
21. The proposed development has been considered against Human Rights implications especially with regard to Article 8 – right to respect for private and family life and Protocol 1, Article 1 – protection of property and balancing the public interest and well – being of the community within these

rights and the Council has had due regard to its public sector equality duty under Section 149 of the Equality Act 2010.

Recommendation

It is recommended that the Planning and Regulation Committee authorise the commencement of the statutory process to make the Order to revoke the Hazardous Substance Consents refs: N180/1734/93; N/180/1013/96 and (E)N/180/665/99.

Appendix

These are listed below and attached at the back of the report	
Appendix A	Committee Plan
Appendix B	Hazardous Substance Consents to be revoked

Background Papers

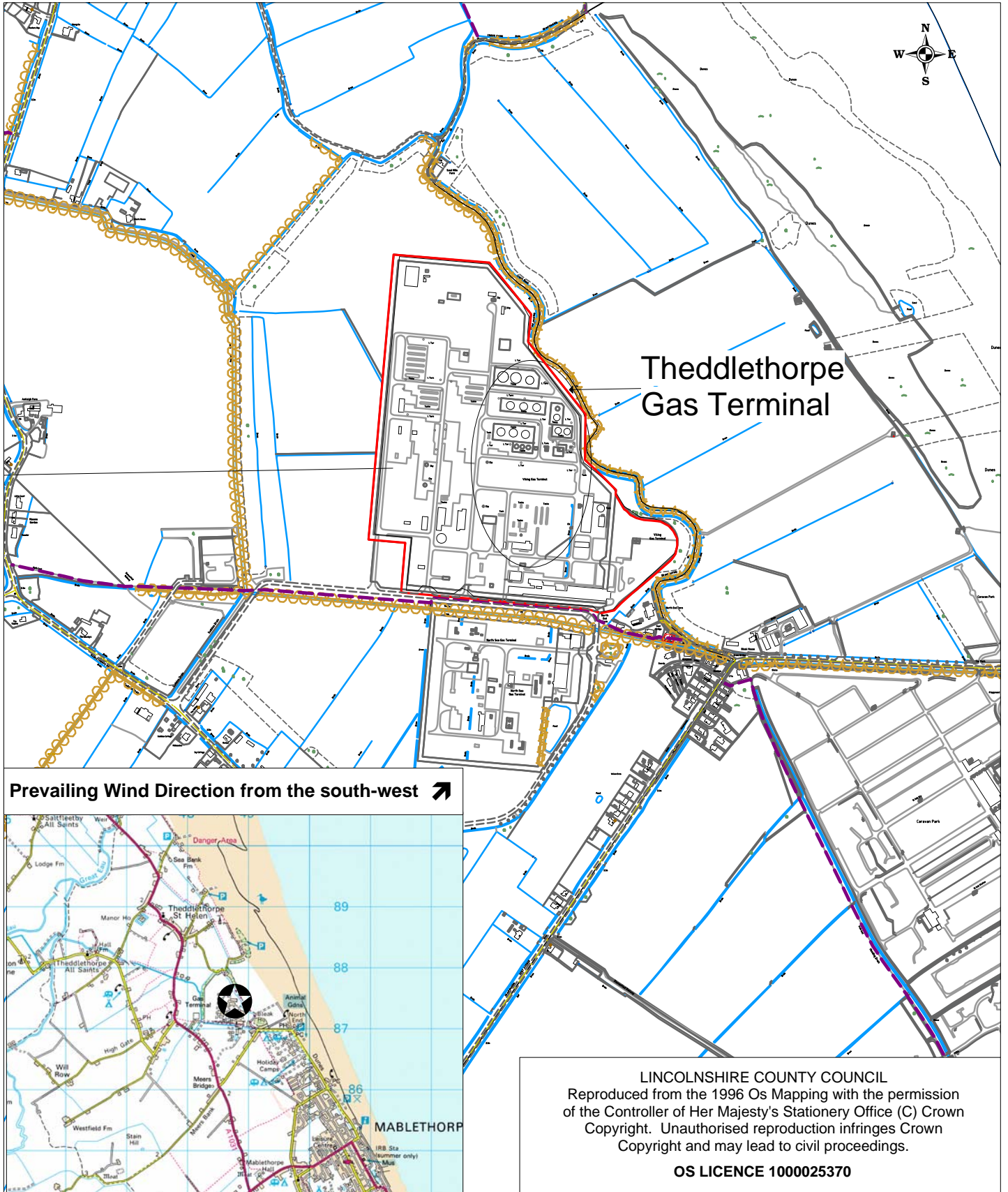
The following background papers as defined in the Local Government Act 1972 were relied upon in the writing of this report.

Document title	Where the document can be viewed
Planning Application File (E)N180/1754/16	Lincolnshire County Council, Planning, Witham Park House, Waterside South, Lincoln
Hazardous Substance Consent File (E)N180/2032/15	Lincolnshire County Council's website: https://www.lincolnshire.gov.uk/
Planning (Hazardous Substances) Act 1990	The Government's website http://www.legislation.gov.uk/
East Lindsey Local Plan (Alteration) 1999	East Lindsey District Council's website http://www.e-lindsey.gov.uk/

This report was written by Felicity Webber, who can be contacted on 01522 782070 or dev_planningsupport@lincolnshire.gov.uk

LINCOLNSHIRE COUNTY COUNCIL

PLANNING AND REGULATION COMMITTEE 3 APRIL 2017



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Location:

Theddlethorpe Gas Terminal
 Theddlethorpe St Helens
 Mablethorpe

Description:

The revocation of three Hazardous Substance Consents

Scale: 1:10 000

Planning (Hazardous Substances) Act 1990
 The Planning (Hazardous Substances) Regulations 1992

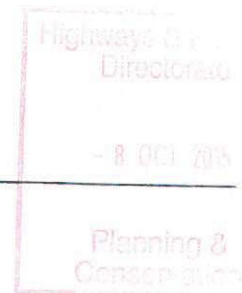
HAZARDOUS SUBSTANCES CONSENT

Name and address of applicant

Conoco (UK) Limited
 Park House
 116 Park Street
 LONDON
 W1Y 4NN

Name and address of agent (if any)

Conoco (UK) Limited
 Theddlethorpe Gas Terminal
 Theddlethorpe St Helen
 MABLETHORPE
 Lincolnshire
 LN12 1NQ



Part I - Particulars of application

Date of application:
 8 June 1999

Application No.
 N/180/665/99
 LCC Ref. No.
 (E)N180/0665/99

Particulars of application:

Hazardous substance application to increase the amount of stored hazardous material at Theddlethorpe Gas Terminal, Mablethorpe Road, Theddlethorpe St Helen.

Part II - Particulars of decision

In pursuance of its powers under the Planning (Hazardous Substances) Act 1990, the Lincolnshire County Council grants consent to the application referred to in Part 1 hereof in accordance with the application and plans submitted subject to the following conditions:-

- (a) The maximum aggregate quantity of substance that may be present -
 - (i) on, over or under the land to which this consent relates;
 - (ii) on, over or under other land which is within 500m of it and controlled by the same person; or
 - (iii) in or on a structure controlled by the same person any part of which is within 500m of it, at anyone time shall not exceed the established quantity of 30 tonnes of Liquefied Petroleum Gas about 1.4 bara, 619 tonnes of Natural Gas, 1,304 tonnes of flammable substance held as mixture of liquid and gas about 1.4 bara, 13,412 tonnes of flammable liquid with a flashpoint less than 21 degrees Celsius and 2,478 tonnes of Methanol.
- (b) The hazardous substance shall not be kept or used other than in accordance with the approved particulars stated in the application form and on Drawing No. TGT-50-DR-002-01 received on 21 July 1999.

Date *3rd November 1999*

4th Floor, City Hall
 Beaumont Fee, Lincoln

Signature Replaced by
 Digital Signature

Head of Planning and Conservation
 Lincolnshire County Council

Note: This consent refers only to that required under the Planning (Hazardous Substances) Act 1990 and does not include any consent or approval under any other enactment, byelaw, order or regulation.

- (c) The hazardous substance shall not be stored outside the area marked for storage on Drawing No. TG 50-DR-002-01 and detailed in the application form received on 21 July 1999.

Reasons

- (a) In order to comply with the requirements of Section 9(4) (c) of the Planning (Hazardous Substances) Act 1990.

- (b) and (c)

In order to comply with the requirements of Section 10(i) of the Planning (Hazardous Substances) Act 1990.

1. If the applicant is aggrieved by the decision of the hazardous substances authority to refuse an application for hazardous substances consent or to grant it subject to conditions, he may appeal to the Secretary of State for the Environment Transport and the Regions in accordance with Section 21 of the Planning (Hazardous Substances) Act 1990, within six months of the date of this notice or such longer period as the Secretary of State may at any time allow. (Appeals must be made on a form which is obtainable from The Planning Inspectorate, Tollgate House, Houlton Street, Bristol BS2 9DJ).

HAZARDOUS SUBSTANCES CONSENT

Agent/Applicant's Name and Address

CONOCO (U.K.) LTD.,
THEDDLETHORPE GAS TERMINAL,
THEDDLETHORPE ST. HELEN,
MABLETHORPE, LINCS.
LN12 1NQ

Applicant's Name and Address

CONOCO (U.K.) LTD.,
GAS TERMINAL,
THEDDLETHORPE ST. HELEN,
MABLETHORPE, LINCS.

Part I - Particulars of Application

Date received:
26/06/96

Application Number:
N/180/1013/96

Particulars and location of the application

PROPOSAL: Hazardous Substance Application to increase the amount of stored hazardous materials.

LOCATION: GAS TERMINAL, THEDDLETHORPE ST. HELEN,
MABLETHORPE, LINCS.

O.S. Sheet Reference: [49.16]

Grid Ref.: [548700][387400]

Field number: 209; 211; 212; 213; 230; 231; 232; 375; 376;
Also O/S number 57.4.

Part II - Particulars of decision

In pursuance of its powers under the Planning (Hazardous Substances) Act 1990, the East Lindsey District Council grants consent to the application referred to in Part 1 hereof in accordance with the application and plans submitted subject to the following condition(s):

1. The maximum aggregate quantity of the substance that may be present-

- (i) on, over or under the land to which this consent relates;
- (ii) on, over or under other land which is within 500 metres of it and controlled by the same person; or
- (iii) in or on a structure controlled by the same person any part of which is within 500 metres of it,

at any one time shall not exceed the established quantity of 30 tonnes of Liquified Petroleum Gas above 1.4 bara, 562 tonnes of flammable gases held as gas, 1207 tonnes of flammable substances held as a mixture of liquid and gas above 1.4 bara and 13,190 tonnes of flammable liquid with a flashpoint less than 21 degrees celsius.

Reason: In order to comply with the requirements of Section 9(4)(c) of the Planning (Hazardous Substances) Act 1990.

2. The hazardous substances shall not be kept or used other than in accordance with the approved particulars stated in form 1 and on the approved plan received by the Local Planning Authority on 24th June 1996.

Reason: In order to comply with the requirements of Section 10 (i) of the Planning (Hazardous Substances) Act, 1990.

3. The hazardous substances shall not be stored outside the areas marked for storage on the approved plan and detailed in Form 1 received by the Local Planning Authority on 24th June 1996.

Reason: In order to comply with the requirements of Section 10 (i) of the Planning (Hazardous Substances) Act, 1990.

NOTES TO APPLICANT:

1. The applicant's attention is drawn to the letter and plan attached dated 11th July 1996 from British Gas North.

Signature Replaced
by Digital Signature

Dated: 03/10/96

Signed
Director of Planning and Economic Development

Tel: Louth 601111

EAST LINDSEY DISTRICT COUNCIL, TEDDER HALL, MANBY PARK, LOUTH, Lincs. LN11 8UP

Highway Director's

- 8 OCT 2015

Planning & Construction

TF 4987

8056
1-310ha
3-24

9144
927ha
2-29

9333
1-682ha
4-16

582
2-99
7-4
TF 4872

TF 485-870

TF 488-890

5111
882ha
2-18

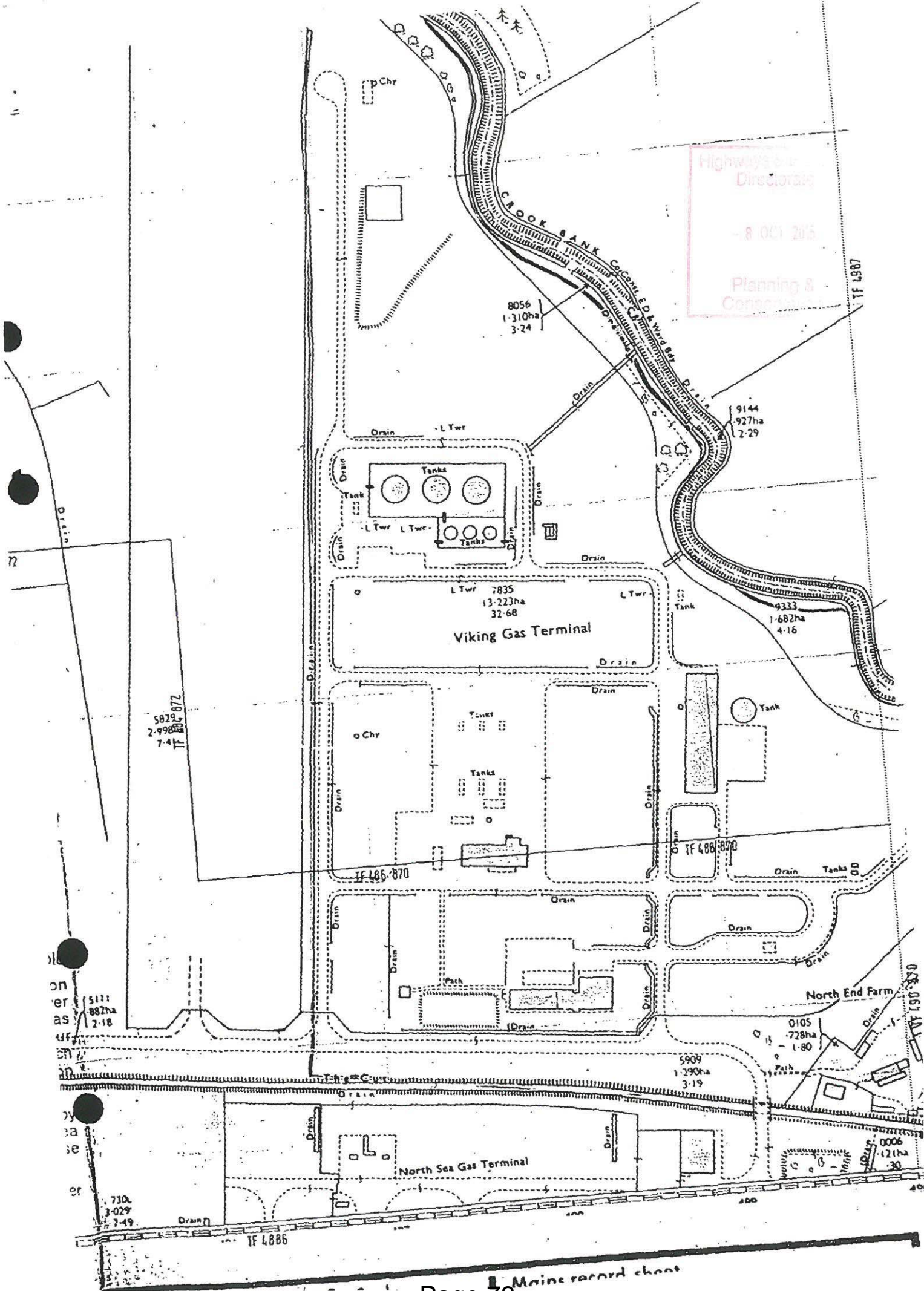
0105
728ha
1-80

5909
1-390ha
3-19

0006
121ha
3-30

730
7-029
7-49

TF 4886



HAZARDOUS SUBSTANCES CONSENT

Agent/Applicant's Name and Address
CONOCO (UK) LTD.,
THEDDLETHORPE GAS TERMINAL,
THEDDLETHORPE ST HELEN,
MABLETHORPE, LINCS.
LN12 1NQ

Applicant's Name and Address
CONOCO (UK) LTD.,
PARK HOUSE,
116 PARK STREET,
LONDON
W1Y 4NN

Highways & Planning
Directorate
- 8 OCT 2013
Planning & Conservation

Part I - Particulars of Application

Date received:
19/11/93

Application Number:
N/180/1734/93

Particulars and location of the application

PROPOSAL: Hazardous Substance Consent for the process and storage of flammable substances.

LOCATION: CONOCO GAS TERMINAL, THEDDLETHORPE ST. HELEN, MABLETHORPE, LINCS.

O.S. Sheet Reference: [49.16]

Grid Ref.: [548711][387420]

Field No: 231pt; 230pt; 213; 212;211;209;214;232

Part II - Particulars of decision

In pursuance of its powers under the Planning (Hazardous Substances) Act 1990, the East Lindsey District Council grants consent to the application referred to in Part 1 hereof in accordance with the application and plans submitted subject to the following condition(s):

1. The maximum aggregate quantity of the substance that may be present-
 - (i) on, over or under the land to which this consent relates;
 - (ii) on, over or under other land which is within 500 metres of it and controlled by the same person; or
 - (iii) in or on a structure controlled by the same person any part of which is within 500 metres of it,
 at any one time shall not exceed the established quantity of 129.14 tonnes Liquified Petroleum Gas; 235.59 tonnes Gas and Mixture of Gases; 12,596 tonnes Condensate; 12,596 tonnes of Methanol; 12,596 tonnes of Condensate/Methanol Mix.

Reason: In order to comply with the requirements of Section 9(4)(c) of the Planning (Hazardous Substances) Act 1990.

NOTES TO APPLICANT:

1. The applicant's attention is drawn to the attached copy letter from the National Rivers Authority.

Signature Replaced
by Digital Signature

Dated: 25/01/94

Signed
Director of Planning and Economic Development

Tel: Louth 601111
EAST LINDSEY DISTRICT COUNCIL, TEDDER HALL, MANBY PARK, LOUTH, LINCS. LN11 8UP