

**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 - (E)S86/0014/17

Summary:

Planning permission is sought by Paul Riddel Skip Hire Ltd (Agent: Ryland Design Services Ltd) to retain Biomass Boiler System at Paul Riddel Skip Hire Ltd, Hemingby Lane, Horncastle, Lincolnshire

Recommendation:

The key issues to be considered in this case are the impacts of the retaining the Biomass Boiler System on the amenity of occupants of the nearby residential properties, in particular the impact of smoke and odour.

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.

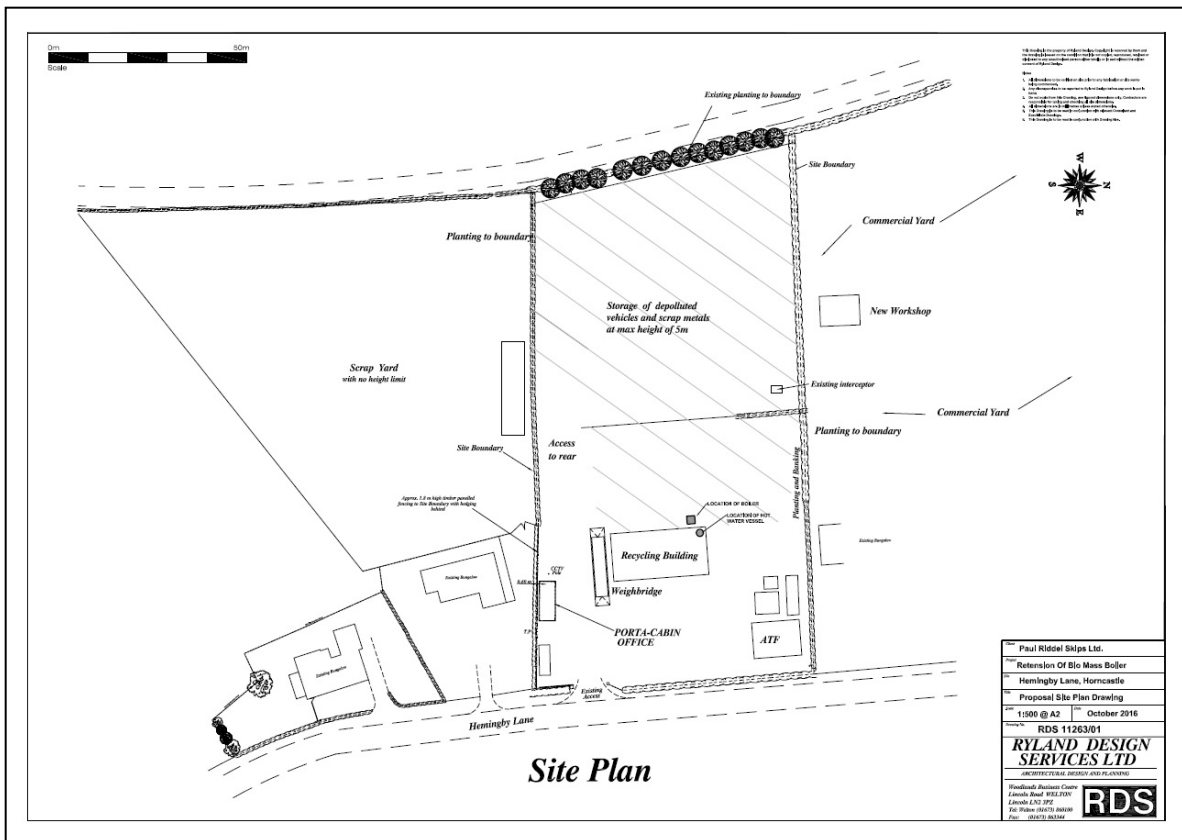
Background

1. Planning permission was granted in 1996 to use land and a building at Hemingby Lane for storage and recycling purposes. Further consents were granted in 1999 which allowed for the importation and storage of scrap metal in a designated area of the site and in 2000 planning permission was granted for an extension to the site area for waste transfer and storage. In 2004 a further consent was granted for an extension to the existing waste recycling centre which allowed for the depollution of end of life vehicles and handling of waste electrical and electronic equipment.

The Application

2. This application is retrospective as the biomass boiler was installed in March 2016 as part of a renewable heating incentive (RHI). It was the applicant's understanding that the installation of the boiler was permitted development and therefore did not require a separate planning permission. However, following discussions with the Local Planning Authority the applicant was informed that planning permission was required because:

- (i) the generating capacity of the unit was over 45kw and therefore exceeded that which was allowed under permitted development;
 - (ii) the flue exceeds the highest part of the roof by over 1m;
 - (iii) the fuel used to feed the unit is sourced from waste streams brought to the waste recycling facility and not specifically a biomass product purchased solely as an alternative fuel. Consequently, the unit is primarily used as a means to recover energy from waste wood streams and therefore a planning application was required.
3. The 100kw biomass boiler system comprises three main elements: the boiler unit and flue (which are located outside and to the rear of the substantial recycling building) and the hot water tank (which is located within the recycling building). The main feedstocks used by the system comprise of unpainted wood sourced from the applicants recycling business. The resulting energy is used to heat the building via warm air blowers whilst the associated tank provides a source of heat for drying clothes.



Plan 1 - Site Plan.

4. Following the installation and operation of the biomass boiler system complaints were made to East Lindsey District Council's Environmental Protection Officers (EPO) about smoke and odours from the site. Following a site inspection by the EPO, modifications were made to the system in order to try and reduce smoke, odour and pollution levels. These measures included increasing the height of the stainless steel flue, above the boiler unit, from 7m to 9m and the replacement of the original cowl with a more

suitable "jet" cowl. The applicant was also advised to not use certain materials/feedstocks as a fuel (e.g. painted timbers) and in order to ensure that suitable materials are used it was recommended that a notice be erected close to system identifying the type of materials to be used. It was also advised that the chamber of the boiler should not be over loaded prior to ignition.

Site and Surroundings

5. The scrapyards/waste recycling facility within which the biomass boiler and associated equipment is stationed is located on the northern edge of Horncastle. The substantial scrapyards/waste transfer station is rectangular in shape and is for the most part enclosed by a 1.8m high close boarded timber fence and conifer hedges, approximately 6m high. To the north, beyond the fencing and hedge is a substantial commercial yard, with the nearest residential property a bungalow, some 28m from the location of the boiler/flue. To the west is the River Bain beyond which are open fields. To the south another substantial scrap yard/waste recycling facility. To the east beyond the large recycling building and yard, fence and hedging is Hemingby Lane beyond is an area of housing "Oak Tree Meadow", the boundary of the nearest property is approximately 47m from the location of the flue. Immediately to the south of this area of housing is the County Council highways depot.



View from Hemingby Lane.



View from access road into Oak Tree Meadow at its junction with Hemingby Lane.



6. Within the site the Biomass boiler and flue is located adjacent to the site's substantial recycling building.



View of Biomass Boiler and flue from within scrapyard/waste recycling facility.

Main Planning Considerations

National Guidance

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

Paragraph 98 - supports small-scale renewable and low carbon energy generation projects and states that applicants need not demonstrate the overall need for renewable or low carbon energy and that the contribution that such projects provide to cutting greenhouse gas emissions should be recognised. Applications should therefore be approved if a development's impacts are (or can be made) acceptable.

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 - 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 applicants to secure developments that improve the economic, social and environmental conditions in the area.

Paragraph 215 - states that 12 months after the publication of the NPPF (March 2012) due weight should be given to relevant policies in existing plans according to their degree of consistency with the framework (the closer the policies in the plan to the policies in the framework the greater the weight that may be given).

Local Plan Context

8. Lincolnshire Minerals and Waste Local Plan Core Strategy and Development Management Policies (June 2016). The key policies of relevance in this case are:

Policy W3 (Spatial Strategy for New Waste Facilities) – states that proposals for new waste facilities, including extensions to existing facilities in and around identified main urban areas would be supported. Proposals for new waste facilities outside those urban areas would be supported where they are small scale.

Policy W7 (Small Scale Waste Facilities) – states that development of small scale waste facilities, including small extensions to existing facilities outside the urban areas identified in Policy W3 will be supported provided it meets the following criteria: there is a proven need to locate the facility outside the urban areas; it accords with all relevant Development Management Policies set out in the plan; it would be well located to the sources of the waste being managed; it is located on previously developed/contaminated/existing or planned industrial/employment land.

Policy DM1 (Presumption in Favour of Sustainable Development) states that the County Council will adopt a positive approach that reflects the presumption in favour of sustainable development.

Policy DM2 (Climate Change) states that developments should encourage ways of working which reduce the overall carbon footprint.

Policy DM3 (Quality of Life and Amenity) states that permission will be granted for development provided that it does not generate unacceptable adverse impacts arising from a wide list of matters, including noise, dust, odour, emissions and the migration of contamination to occupants of nearby dwellings and other sensitive receptors.

Policy DM17 (Cumulative Impacts) seeks to ensure that the cumulative impacts of development would not have significant adverse impacts on the environment of an area or on the amenity of a local community.

9. East Lindsey Local Plan 1999 (ELLP) - 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 of relevance to this proposal:

Policy A4 (Protection of General Amenities) states that development which unacceptably harms the general amenities of people living or working nearby will not be permitted.

10. East Lindsey Core Strategy (Publications Version) - November 2016 (ELCS). This document forms part of the emerging East Lindsey Local Plan, which was until recently was out to consultation. In line with paragraph 216 of the NPPF, given its stage of preparation, increased weight may be given to the policies contained within this document. The following policies are of relevance to this proposal:

Strategic Policy 27 (SP27) - Renewable and Low Carbon Energy - states that support will be given to small scale and micro renewable energy development, where their individual or cumulative impact, when weighed against the benefits, is not considered to have an unacceptable impact on residential amenity.

Results of Consultation and Publicity

11. (a) Local County Council Member, Councillor WJ Arron - notified on the 3 January 2017 but had not replied when this report was prepared.
- (b) Horncastle Town Council - support the proposal subject to the applicant complying with the relevant regulations covering emissions, types of materials used to fuel the system and height of flue.
- (c) Environment Agency (EA) - raised no objection.
- (d) Environmental Protection Officer (East Lindsey District Council) - has confirmed that since the installation and operation of the system substantiated complaints have been received. This has resulted in the applicant being required to make certain changes to the original equipment and advice has been given by the EPO on the types of materials/feedstocks to be used as well as guidance on the process

itself. The EPO has carefully considered the application the objections received during the consideration of this application and has confirmed that whilst the objections/representations of members of the public are noted they raise no objection to the retention of this unit subject to a condition being imposed to limit the fuel types used by the unit.

(e) Highways Officer (Lincolnshire County Council) – raised no objection.

12. The application has been publicised by notices posted at the site and in the local press (Horncastle News on 11 January 2017) and letters of notification were sent to the nearest neighbouring residents. Ten representations have been received as a result of this notification/publicity which raise concerns and objections to the proposals and are summarised below:

- Concerns regarding extent of consultation - comments received that given the previous complaints about the operation of the equipment it was felt wider consultation should have been conducted rather than just notifying directly adjacent properties. It is stated that the impacts of this development effect a greater number of residential properties than those directly consulted.
- Retrospective consent and non-compliance - concerns that the biomass boiler has been installed without the necessary approvals or planning permission first being in place. The applicant has therefore been operating the biomass boiler without consent and consequently how can local residents be assured that the applicant would comply now? Questions have also been raised about how the site would be monitored to ensure compliance.
- Impacts on residents and emissions - the operation of the boiler has resulted in thick, black, acrid smoke and pungent smells drifting over nearby residential properties due to the prevailing wind direction. There have also been occasions when the operations have resulted in it "raining ash". Due to these problems residents have had to close windows and cannot hang washing out. They have also been unable to sit out in their gardens and children cannot play outside. Given the prevailing wind direction nearby residents are subjected to virtually persistent exposure to smoke/odour resulting in a statutory nuisance.
- Impact on Health - concerns raised that the smoke being emitted could be toxic and could be damaging to local residents health, especially to children and older people.
- Impact on the Area of Outstanding Natural Beauty - comments have been received claiming that the site lies within the Lincolnshire Wolds AONB, and therefore this should be given additional protection. It is argued that this proposal would appear to at odds with this designation.

District Council's Recommendation

13. East Lindsey District Council have no objection to the proposal.

Conclusion

14. This application is seeking retrospective planning permission for the installation and operation of a biomass boiler which has been installed at the site. The boiler utilises waste woods derived from the waste transfer station and uses these as an alternative fuel source/feedstock and thus recover heat which is used to heat the building. The biomass boiler is therefore (in part) a small-scale waste facility (as it utilises waste wood) but also a renewable energy project.
15. The application is retrospective as the applicant installed the system believing it could be installed under permitted development rights and therefore did not require planning permission. The applicant was only made aware of the need to submit a planning application following a routine monitoring visit by the County Council's Enforcement Officer and consequently whilst the applicant has been operating the system without the necessary permissions having first been in place it is not illegal. However, as the applicant is now seeking planning permission to regularise the development, consideration can be given to the suitability and acceptability of this development in this location and any impacts arising from it upon the local area.
16. Whilst the proposal is not located within one of the urban areas identified in Policy W3, it would fall within the type of proposal which could be supported outside these urban areas, given the small scale nature of the proposal. Policy W7 sets out the criteria to be applied when considering the suitability of small scale waste facilities, this includes: identifying the need for the facility out with those urban areas identified in Policy W3; its ability to accord with all relevant Development Management Policies set out in the plan; the facility being well located to the sources of the waste being managed; and its location on existing industrial land. The biomass boiler provides heat to an existing, substantial industrial building located within a consented and working scrapyards/waste recycling facility on the edge of the town of Horncastle. Fuel for the boiler is sourced from the waste materials already brought to the recycling facility. It is therefore concluded that the proposal accords with these policies.
17. The provision of small scale renewable and low carbon energy generation projects are supported in the aims and policies of the NPPF, Policy DM2 of the Lincolnshire Minerals and Waste Local Plan Core Strategy, as well as Policy SP27 of the emerging East Lindsey Core Strategy. Paragraph 122 of the NPPF does make the distinction that planning authorities should concern themselves with the use of land and the impacts of a proposed use rather than the control of processes or emissions which are subject to approval under other pollution control regimes. These documents, together with the East Lindsey Local Plan are explicit in expressing the need for careful

consideration to be given to the possible impacts of development on the amenity of local residents. Paragraphs 120 and 123 of NPPF, Policy DM3 of the Lincolnshire Minerals and Waste Local Plan Core Strategy, Policy A4 of the East Lindsey Local Plan and Policy SP27 of the emerging East Lindsey Core Strategy, all indicate that development should not result in an unacceptable level of harm to the amenity of local residents.

18. The objections received during the consultation process have highlighted the impact that the operation of the biomass boiler has previously had and, if not operated correctly, could have on residential amenity as a result of black noxious smoke and odours being blown across the homes and gardens of the nearby residential estate. Prior to this application being made, and in order to resolve and address the issues and previous complaints made, the ELDC EPO visited the site and required certain changes to be made to the equipment which included an increase in the height of the flue and a change in the cowl at the top of the flue. Both of these alterations have been made and reduce the likelihood of smoke being drawn downward toward the properties and allow smoke to dissipate above the flue. In addition to these physical changes the EPO also highlighted the need for materials being feed into the boiler system to be limited to those identified in the Renewable Heat Incentive Emission Certificate (a copy of which was submitted in support of the planning application). The objections and representations received during the consideration of this application have been forwarded onto the EPO for their consideration and they have confirmed that despite the issues raised they no objection to the proposal given the changes that have already been made to the system and subject to the imposition of a planning condition to specify and restrict the types/nature of materials to be used to fuel the system. No objections have similarly been received from the Environment Agency or District Council. No objections have been raised regarding the visual impact of the equipment itself. As noted the boiler unit and flue are located to the rear of a substantial building some distance from the boundaries of this busy scrapyards/waste recycling facility, any visual impact is mitigated by the existing buildings, activities and boundary treatments.
19. Finally, concerns have been raised that consultation on this application was limited to only two properties directly adjacent to the site and that there was a need for a wider consultation given the number of complaints made by local residents prior to the application being submitted. The complaints made regarding the operation of the boiler were however made direct to East Lindsey District Council (acting as their role as Local Environmental Health Authority) and as such the Waste Planning Authority were unaware of these complaints at the time consultation was undertaken. Notwithstanding this, officers have individually notified occupiers of the properties which are adjacent to the applicants scrapyards/waste transfer facility as well as publicising the application in accordance with the statutory requirements by means of a site notice on Hemingby Lane close to the site and the access into the nearby "Oak Tree Meadow" housing estate as well as a notice in the local press (the Horncastle News). As a result, of this publicity and notification representations have been received and therefore it is

considered that appropriate level of consultation and notification has been achieved.

20. Overall, although the objections from local residents are noted, having had regard to the changes already made to the biomass boiler system and subject to the imposition of a condition to restrict the types of materials permitted to be used, it is considered that the operation and emissions from the system would meet the necessary requirements and regulations and not have an unacceptable adverse impact on local residents and therefore accord with the relevant policies of the NPPF and the Development Plan.

RECOMMENDATIONS

That planning permission be granted subject to the following conditions:

1. The development hereby permitted to be retained shall be undertaken out strictly in accordance with the details set out in the application and supporting documents received on the 7 November 2016 and 13 December 2013, and the following plan: Proposal Site Plan Drawing RDS 11263/01, received 7 November 2016.
2. The feedstock/materials permitted to be used as a fuel shall be limited to clean untreated wood including sawdust, wood shavings, logs, pallets and waste wood. No other wastes shall be used as fuel for the biomass boiler system.

Reasons

1. To ensure the development to be retained/carried out is in accordance with the approved details.
2. For the avoidance of doubt and in the interests of local amenity.

Appendix

These are listed below and attached at the back of the report

Appendix A	Committee Plan
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Background Papers

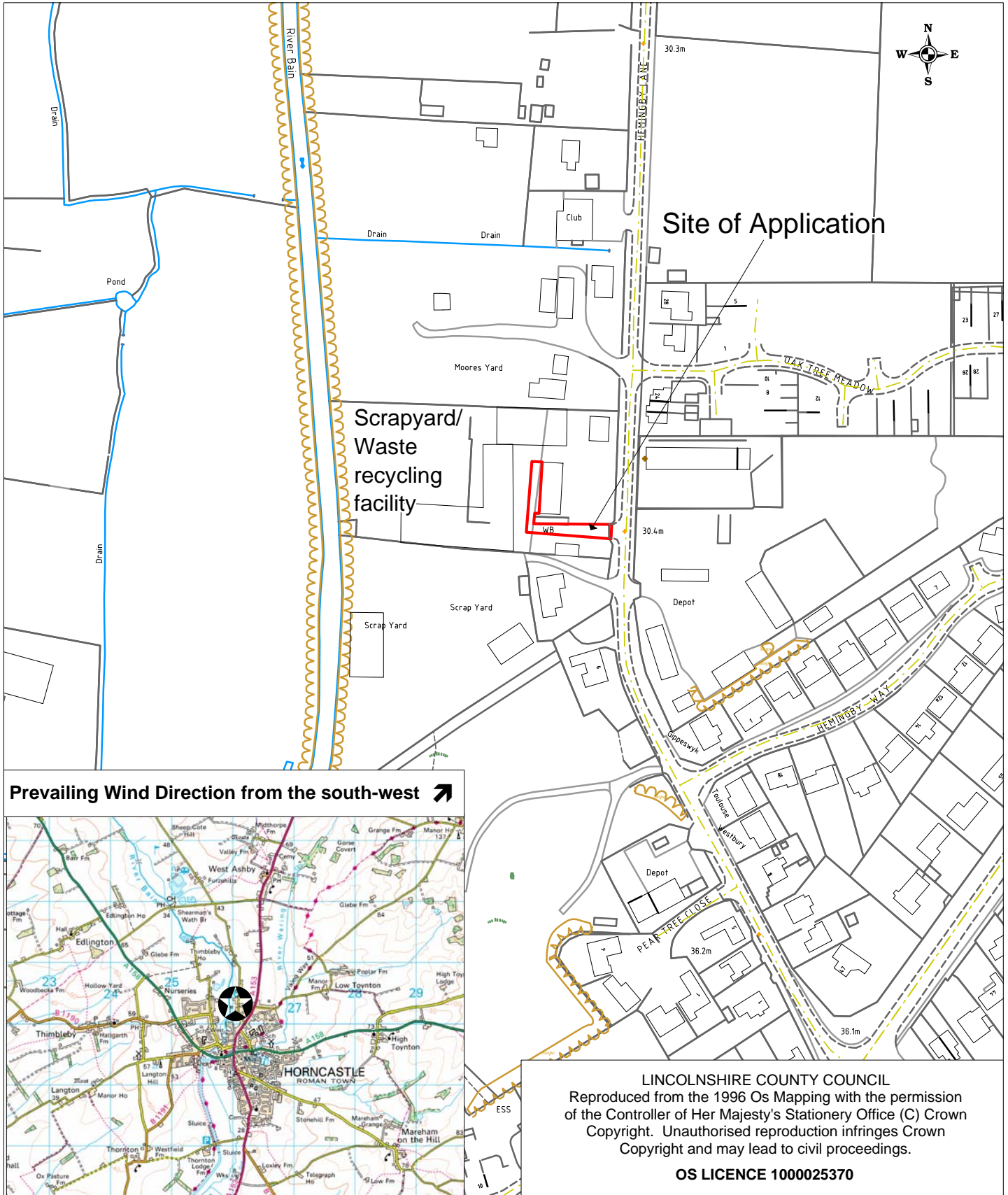
The following background papers as defined in the Local Government Act 1972 were relied upon in the writing of this report.

Document title	Where the document can be viewed
Planning Application File (E)S86/0014/17	Lincolnshire County Council, Planning, Witham Park House, Waterside South, Lincoln
National Planning Policy Framework (2012)	The Government's website www.gov.uk
East Lindsey Local Plan 1999 (ELLP)	East Lindsey District Council website www.e-lindsey.gov.uk/
East Lindsey Core Strategy (Publications Version) - November 2016 (ELCS)	

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LINCOLNSHIRE COUNTY COUNCIL

PLANNING AND REGULATION COMMITTEE 6 MARCH 2016



Location:
 Paul Riddel Skip Hire Ltd
 Hemingby Lane
 Horncastle

Description:
 To retain biomass boiler system

Application No: S/086/14/17
Scale: 1:2500

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