

REPORT

Boston Alternative Energy Facility – Environmental Statement

Chapter 3 Policy and Legislation

Client: Alternative Use Boston Projects Ltd
Planning Inspectorate Reference: EN010095
Document Reference: 6.2.3
Pursuant to: APFP Regulation: 5(2)(a)
Reference: PB6934-RHD-01-ZZ-RP-N-3003
Status: 0.0/Final
Date: 23 March 2021



Rightwell House
Rightwell East
Bretton
Peterborough
PE3 8DW
Industry & Buildings
VAT registration number: 792428892

+44 1733 334455 **T**
+44 1733 262243 **F**
email **E**
royalhaskoningdhv.com **W**

Document title: Boston Alternative Energy Facility – Environmental Statement

Document short title: Policy and Legislation
Reference: PB6934-RHD-01-ZZ-RP-N-3003
Status: 0.0/Final
Date: 23 March 2021
Project name: Boston Alternative Energy Facility
Project number: PB6934-RHD-01-ZZ-RP-N-3003
Author(s): Ashleigh Holmes, Charlotte Goodman

Drafted by: Ashleigh Holmes

Checked by: Charlotte Goodman

Date: 27/11/20 CG

Approved by: Paul Salmon

Date: 19/03/21 PS

Classification

Project related

Unless otherwise agreed with the Client, no part of this document may be reproduced or made public or used for any purpose other than that for which the document was produced. HaskoningDHV UK Ltd. accepts no responsibility or liability whatsoever for this document other than towards the Client. Please note: this document contains personal data of employees of HaskoningDHV UK Ltd.. Before publication or any other way of disclosing, this report needs to be anonymized.

Table of Contents

3	Policy and Legislation	1
3.1	Introduction	1
3.2	The Planning Act 2008	1
3.3	National Policy Statements	1
3.4	Planning Policy and Legislation	5
3.5	References	23

Table of Tables

Table 3-1	Legislation of Relevance to the Facility	6
-----------	------------------------------------------	---

Table of Plates

Plate 3-1	Allocation of Riverside Industrial Estate (WA22-BO)	19
Plate 3-2	SELLP Allocation for Riverside Industrial Estate, BO006 (South-East Lincolnshire Joint Strategic Planning Committee)	21

3 Policy and Legislation

3.1 Introduction

3.1.1 This chapter provides a summary of the key UK legislation and national policy drivers that are material to the proposed development of the Boston Alternative Energy Facility (herein ‘the Facility’).

3.2 The Planning Act 2008

3.2.1 The Planning Act 2008 (the Act) (as amended) is the primary legislation that established the legal framework for applying for, examining and determining applications for Nationally Significant Infrastructure Projects (NSIPs). NSIPs are usually large-scale developments such as power generating stations, electricity lines, waste or water developments or pipelines. They require a Development Consent Order (DCO) which allows permission to construct and operate, governed by the Act.

3.3 National Policy Statements

3.3.1 The policy framework for examining and determining applications for NSIPs is provided by National Policy Statements (NPSs). Section 104 of the Act requires the Secretary of State to determine applications for NSIPs in accordance with any relevant NPS, unless:

- It would lead to the UK being in breach of its international obligations;
- It would be in breach of any statutory duty that applies to the Secretary of State;
- It would be unlawful;
- The adverse impacts of the development outweigh its benefits; or
- It would be contrary to any Regulations that may be made prescribing other relevant conditions.

3.3.2 In July 2011, the Secretary of State for the Department of Energy and Climate Change (‘DECC’ which was recently replaced by the Department for Business, Energy and Industrial Strategy (BEIS)) designated a series of NPSs relating to nationally significant energy infrastructure.

3.3.3 The NPSs that are relevant to the Facility include:

- The overarching NPS for Energy (EN-1) (DECC, 2011a); and
- NPS for Renewable Energy Infrastructure (EN-3) (DECC, 2011b).

3.3.4 Part 4 of EN-1 sets out several ‘Assessment Principles’ that must be considered by applicants and the Secretary of State in preparing and determining applications for nationally significant energy infrastructure.

3.3.5 Paragraph 4.1.2 of EN-1 details the requirement for the Secretary of State:

“Given the level and urgency of need for the infrastructure covered by the energy NPSs... to start with a presumption in favour of granting consent for applications for energy NSIPs. That presumption applies unless any more specific and relevant policies set out in the relevant NPS clearly indicate that consent should be refused” or any of the considerations referred to in Section 104 of the 2008 Act (noted above) apply.”

3.3.6 Paragraph 4.1.3 of EN-1 states:

“In considering any proposed development, and in particular when weighing its adverse impacts against its benefits, the Secretary of State should take into account:

- *Its potential benefits, including its contribution to meeting the need for energy infrastructure, job creation and any long-term or wider benefits; and*
- *Its potential adverse impacts, including any long-term and cumulative adverse impacts, as well as any measures to avoid, reduce or compensate for any adverse impacts.”*

3.3.7 Paragraph 4.1.4 of EN-1 continues by stating that within this context the Secretary of State should:

“take into account environmental, social and economic benefits and adverse impacts, at national, regional and local levels.”

3.3.8 The generation of electricity from renewable sources of energy is an important element in the Government’s development of a low-carbon economy. There are ambitious renewable energy targets in place and a significant increase in generation from large-scale renewable energy infrastructure is necessary to meet the 15 % renewable energy target (see Section 3.4 of EN-1).

3.3.9 In addition to the assessment principles and generic impacts covered by EN-1 (where relevant to fossil fuel generating stations), EN-3 sets out the factors (e.g. factors influencing site selection) and ‘assessment and technology specific’ considerations to be taken into account in the preparation and assessment of applications for renewable energy infrastructure. This includes relevant environmental matters, such as (but not limited to) noise and vibration, landscape and visual, air quality, water quality, soils and geology, transport and biodiversity.

- 3.3.10 The generation of renewable energy from waste is covered in section 2.5 of EN-3 which refers to the use of solid recovered fuel (SRF) from waste. For the purposes of this Environmental Statement (ES), SRF as referenced in EN-3 is the same as refuse derived fuel (RDF), and henceforth, RDF (or 'feedstock') is used for consistency.
- 3.3.11 EN-3 states that throughput volume is not in itself a factor in the decision-making process. However, the potential adverse effects that may result from high throughput volumes must be balanced against the net benefits of the thermal conversion of the waste to energy.
- 3.3.12 EN-3 states in section 2.5.25 that Government policy encourages multi-modal transport and there is an expectation that fuel, and residues are transported by water or rail routes where possible. The location for the Facility was specifically determined in terms of this particular policy on the basis that the feedstock could be imported by ship and the aggregate product could be exported by ship.
- 3.3.13 The following identifies the assessment principles for renewable energy infrastructure applications set in EN-3:
- National Designations – in sites with nationally recognised designations (Sites of Special Scientific Interest (SSSIs), Natural Nature Reserves (NNR), National Parks, the Broads, Areas of Outstanding Natural Beauty (AONB) and Registered Parks and Gardens), consent for renewable energy projects should only be granted where it can be demonstrated that the objectives of designation of the area will not be compromised by the development, and any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by the environmental, social and economic benefits. The Facility is not located within a site that has a National Designation. However, the environmental assessment in this ES identifies any potential effects on surrounding sites that hold such designations. This is assessed in **Chapter 12 Terrestrial Ecology, Chapter 14 Air Quality, Chapter 15 Marine Water and Sediment Quality, Chapter 16 Estuarine Processes, Chapter 17 Marine and Coastal Ecology and Appendix 17.1 Habitats Regulations Assessment (HRA)**.
 - Historic Environment – EN-3 notes (Paragraph 2.5.34) that the Secretary of State should consider whether any harm or loss of a designated heritage asset may be outweighed by the positive role that large-scale renewable energy infrastructure would play in the mitigation of climate change, emissions reductions, the delivery of energy security and urgency of meeting the Government's renewable energy targets. This is assessed in **Chapter 8 Cultural Heritage**.

- Air Quality and Emissions – EN-3 refers to compliance with the Waste Incineration Directive (WID) and the Large Combustion Plant Directive (LCPD). Both of these Directives were superseded by the Industrial Emissions Directive (IED) on 1st January 2016. Where a proposed renewable energy facility meets the requirements of the IED and will not exceed the local air quality standards, the proposed power station should not be regarded as having adverse effects on health (EN-3 Paragraph 2.5.43). Potential effects on air quality are assessed in **Chapter 14 Air Quality**.
- Landscape and Visual – EN-3 states (Paragraph 2.5.50) that good design that contributes positively to the character and quality of the area will go some way to mitigate adverse landscape and visual effects. Development proposals should consider the design of the generating station, including the materials to be used in the context of the local landscape to ensure that the design of the proposed generating station is of appropriate quality and minimises adverse effects on the landscape character and quality. The Landscape and Visual Impact Assessment (LVIA) is provided in **Chapter 9 Landscape and Visual Impact Assessment**.
- Noise and Vibration – EN-3 states (Paragraph 2.5.56) that consent should not be granted where the proposed development fails to meet the noise criteria set in EN-1 Paragraph 5.11.9. These require that the development avoids significant adverse effects on health and quality of life from noise, that there is appropriate mitigation to minimise other adverse effects on health and quality of life from noise, and where possible, contribute to improvements to health and quality of life through the effective management and control of noise. See **Chapter 10 Noise and Vibration**.
- Odour, Insect and Vermin Infestation – insect and vermin infestation may be a particular issue with regard to storage of fuels for renewable energy power generating stations as they may be attracted to biodegradable feedstock stored and processed at the Facility. The Facility may give rise to odour during the reception, storage and handling/processing of incoming feedstock. The application must set out appropriate measures to minimise effects on local amenity from odour, insect and vermin infestation. The potential impact and mitigation methods for odour will be assessed in **Chapter 14 Air Quality** and potential impact and mitigation methods for insect and vermin infestation will be assessed within **Chapter 23 Waste**.
- Waste Management – EN-3 requires that an assessment of the proposed development should be undertaken to ensure that it accords with the waste hierarchy and is of an appropriate type and scale so as not to prejudice the achievement of local or national waste management targets in England. Waste management is considered in **Chapter 23 Waste**. The proposed

development should also consider the disposal requirements for residues from the proposed Energy from Waste (EfW) plant. The Facility will look to use on-site processing to transform the residues into an aggregate product. Paragraph 2.5.81 of EN-3 identifies that substantial positive weight should be given to development proposals that have a realistic prospect of recovering residues.

- Water Quality and Resources – EN-3 requires that the application should demonstrate that appropriate measures will be put in place to avoid or minimise adverse effects of abstraction and discharge of cooling water. The Facility will use air-cooled condensers; therefore, this is considered to represent minimal risk. Surface water quality and flood risk issues are covered in **Chapter 13 Surface Water, Flood Risk and Drainage Strategy**.

3.3.14 EN-3 also highlights the use of the ‘Rochdale Envelope’ method in maintaining flexibility in the application process to allow for situations where full details of the project specification may be unknown at the time of submission (EN-3, Paragraph 2.6.43). The ‘Rochdale Envelope’ allows for the maximum adverse case scenario (i.e. worst case) to be assessed in the ES and a DCO granted on this basis (EN-3, Paragraph 2.6.43).

3.3.15 The Act, the Infrastructure Planning (Applications Prescribed Forms and Procedures (APFP)) Regulations 2009, the Overarching NPS for Energy (EN-1) and the NPS for Renewable Energy Infrastructure (EN-3) together set out the DCO requirements and obligations for renewable forms of energy infrastructure. This includes projects generating energy using advanced thermal technologies, with a generating capacity of greater than 50 megawatts (MW).

3.4 Planning Policy and Legislation

Introduction

3.4.1 The following legislation and planning policy are of relevance to the consideration of the DCO.

Legislation

3.4.2 **Table 3-1** sets out the legislation relevant to the consideration of the Facility DCO and where these are discussed in further detail in the ES.

Table 3-1 Legislation of Relevance to the Facility

Legislation	Relevant Chapter (where Discussed)
<p>European Directives:</p> <ul style="list-style-type: none"> a) EIA Directive (2014/52/EU) b) Habitats Directive (92/43/EEC) c) Landfill Directive (1999/31/EC) d) Waste Framework Directive (2008/98/EC) e) Waste Framework Directive (Amendment) (2018/851) f) Waste Incineration Directive (2010/75/EU) g) Air Quality Directive (2008/50/EC) h) Industrial Emissions Directive (2010/75/EU) i) Birds Directive (2009/147/EC) j) Consolidated EIA Directive (2011/92/EU) k) Water Framework Directive (2000/60/EC) l) Environmental Quality Standards Directive (2008/105/EC) m) Flood Directive (2007/60/EC) 	<ul style="list-style-type: none"> a) Chapter 6 Approach to EIA, Chapter 24 Major Accidents and Risk Management b) Chapter 12 Terrestrial Ecology, Chapter 13 Surface Water, Flood Risk and Drainage Strategy, Chapter 17 Marine and Coastal Ecology c) Chapter 23 Waste d) This chapter, Chapter 2 Project Need, Chapter 23 Waste e) This chapter, Chapter 2 Project Need, Chapter 23 Waste f) Chapter 14 Air Quality g) Chapter 14 Air Quality h) Chapter 14 Air Quality i) Chapter 13 Surface Water, Flood Risk and Drainage Strategy, Chapter 17 Marine and Coastal Ecology j) Chapter 9 Landscape and Visual Impact Assessment k) Chapter 13 Surface Water, Flood Risk and Drainage Strategy, Chapter 15 Marine Water and Sediment Quality, Chapter 16 Estuarine Processes l) Chapter 13 Surface Water, Flood Risk and Drainage Strategy, Chapter 15 Marine Water and Sediment Quality m) Chapter 13 Surface Water, Flood Risk and Drainage Strategy
The Planning Act 2008 (as amended)	This chapter, Chapter 1 Introduction, Chapter 6 Approach to EIA, Chapter 7 Consultation, Chapter 13 Surface Water, Flood Risk and Drainage Strategy
The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (as amended) ('EIA Regulations')	Chapter 1 Introduction, Chapter 4 Site Selection and Alternatives, Chapter 6 Approach to EIA, Chapter 7 Consultation, Chapter 22 Health, Chapter 24 Major Accidents and Risk Management
The Infrastructure Planning (Applications Prescribed Forms and Procedures (APFP)) Regulations 2009	This chapter
Environmental Protection Act 1990 (as amended)	This chapter, Chapter 10 Noise and Vibration, Chapter 23 Waste

Legislation	Relevant Chapter (where Discussed)
The Environmental Permitting (England and Wales) Regulations 2016 (as amended)	This chapter, Chapter 13 Surface Water, Flood Risk and Drainage Strategy, Chapter 14 Air Quality, Chapter 23 Waste
<ul style="list-style-type: none"> Waste (England and Wales) Regulations (S.I. 2011/988) Hazardous Waste Regulations (HWR) (S.I. 2005/894) 	This chapter, Chapter 23 Waste
<ul style="list-style-type: none"> Ancient Monument and Archaeological Areas Act 1979 Historic Buildings and Ancient Monuments Act 1953 Planning (Listed Building and Conservation Areas) Act 1990 The Treasure Act 1996 The Burial Act 1857 	Chapter 8 Cultural Heritage
The Hedgerow Regulations 1997 (as amended)	Chapter 9 Cultural Heritage, Chapter 12 Terrestrial Ecology
Control of Pollution Act 1974 (CoP Act) (as amended)	Chapter 10 Noise and Vibration,
<ul style="list-style-type: none"> The Protection of Badgers Act 1992 The Commons Act 2006 Countryside and Rights of Way (CRoW) Act 2000 	Chapter 12 Terrestrial Ecology
<ul style="list-style-type: none"> Conservation of Habitats and Species Regulations 2017 as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 Wildlife and Countryside Act (WCA) 1981 (as amended) The Natural Environmental and Rural Communities (NERC) Act 2006 (as amended) 	Chapter 12 Terrestrial Ecology, Chapter 17 Marine and Coastal Ecology
<ul style="list-style-type: none"> Flood and Water Management Act 2010 Flood Risk Regulations 2009 The Water Resources Act 1991 The Land Drainage Act 1991 	Chapter 13 Surface Water, Flood Risk and Drainage Strategy
<ul style="list-style-type: none"> Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 Water Framework Directive (Standards and Classification) Directions (England and Wales) 2015 	Chapter 13 Surface Water, Flood Risk and Drainage Strategy, Chapter 15 Marine Water and Sediment Quality
<ul style="list-style-type: none"> Environment Act 1995 	Chapter 14 Air Quality

Legislation	Relevant Chapter (where Discussed)
<ul style="list-style-type: none"> • Air Quality (England) Regulations 2000 (Statutory Instrument (S.I.) 2000/928) • Air Quality (Amendment) (England) Regulations 2002 (S.I. 2002/3043) • Air Quality Standards (England) Regulations 2010 (S.I. 2010/1001) • Air Quality Standards (Amendment) Regulations 2016 (S.I. 2016/1184) 	
<ul style="list-style-type: none"> • Eels (England and Wales) Regulations 2009 • Salmon and Freshwater Fisheries Act 1975 	Chapter 17 Marine and Coastal Ecology
<ul style="list-style-type: none"> • International Regulations for the Prevention of Collisions at Sea (COLREGs) (1972) • The Boston Harbour Acts and Revision Order 1812 to 1989 • Merchant Shipping Act 1995 	Chapter 18 Navigational Issues
<ul style="list-style-type: none"> • The Highways Act 1980 • Traffic Management Act 2004 	Chapter 19 Traffic and Transport
<ul style="list-style-type: none"> • Climate Change Act 2008 • Climate Change Risk Assessment 2017 • National Adaptation Programme 	Chapter 21 Climate Change
<ul style="list-style-type: none"> • Health and Safety at Work Act 1974 • Construction Design and Management (CDM) Regulations 2015 • Control of Major Accident Hazard (COMAH) Regulations 2015 	Chapter 24 Major Accidents and Risk Management
<p>Conventions:</p> <ul style="list-style-type: none"> a) European Landscape Convention (UK signed up to in 2006) b) International Convention for the Prevention of Marine Pollution by Ships (MARPOL Convention) 73/78 c) The Convention of Biological Diversity (1992) d) Convention on the Wetlands of International Importance, Ramsar (1971) e) United Nations Framework Convention on Climate Change (UNFCCC) f) Kyoto Protocol 1997 	<ul style="list-style-type: none"> a) Chapter 9 Landscape and Visual Impact Assessment b) Chapter 15 Marine Water and Sediment Quality c) Chapter 17 Marine and Coastal Ecology d) Chapter 17 Marine and Coastal Ecology e) Chapter 21 Climate Change f) Chapter 21 Climate Change

- 3.4.3 In terms of waste, UK legislation is underpinned by several international (e.g. European Union (EU)) agreements. Since 1st February 2020, the UK has withdrawn from the EU and has become a “third country”, which means it is not part of the EU. The Withdrawal Agreement provides for a transition period ending on 31st December 2020. Until that date, EU law in its entirety applies to and in the UK.
- 3.4.4 The majority of EU waste management law was implemented into UK legislation by way of statutory instrument. This means that the relevant legislation will not be automatically or immediately affected by the UK’s exit from the EU as the legislation will remain in place in the UK.
- 3.4.5 The Government has decided that at the point at which the UK leaves the EU, all EU legislation which had not already been transposed into UK law will be transferred to UK statute. From then on all the EU environmental legislation will remain in force as part of UK law but (unless the UK has made specific commitments to apply such law as part of negotiating a new arrangement with the EU), it can then be repealed or amended according to the policy drivers of the UK Parliament (or the devolved parliaments where they have power to do so).

EU Action Plan for the Circular Economy

- 3.4.6 The revised legislative framework on waste in the EU’s Circular Economy Package (CEP) entered into force at the start of July 2018 through Directive (EU) 2018/851 of the European Parliament and of the Council of 30th May 2018, by amending Directive 2008/98/EC on waste (the Waste Framework Directive – see below).
- 3.4.7 Member states have 24 months to transpose it into national legislation. The implementation of CEP in the UK will be subject to the UK Withdrawal Agreement. The UK’s own Circular Economy Package was published on 30 July 2020 by the UK, Welsh, Scottish and Northern Ireland Governments and is predominantly the same as the European CEP. The Government will be making the required legislative changes required to transpose the CEP measures.
- 3.4.8 The CEP extends targets for municipal waste recycling. A target of 55 % by 2025 will be introduced, with a 60 % goal for 2030, then a subsequent 65 % target being set for 2035. EU member states are currently working towards a 50 % target for 2020.
- 3.4.9 Additionally, the CEP proposes a binding landfill target to reduce landfill to maximum of 10 % of municipal waste by 2035.
- 3.4.10 The CEP will also provide concrete measures to promote re-use and stimulate

industrial symbiosis where one industry's by-product is reused as another industry's raw material.

EU Waste Framework Directive (Directive 2008/98/EC) ('rWFD')

3.4.11 The rWFD set the basic concepts and definitions related to waste management, such as definitions of waste, recycling, recovery. It explains when waste ceases to be waste and becomes a secondary raw material (by meeting "end-of-waste" criteria), and how to distinguish between waste and by-products.

3.4.12 The rWFD provides the basic waste management principles:

- It requires that waste be managed without endangering human health and harming the environment, and in particular without risk to water, air, soil, plants or animals, without causing a nuisance through noise or odours, and without adversely affecting the countryside or places of special interest.
- It introduces the concept of the waste hierarchy and provides a direction for the management of waste by applying a priority order to the management of waste.
- It incorporates provisions on hazardous waste.
- It provides recycling and recovery targets to be achieved by 2020: 50 % preparing for re-use and recycling of certain waste materials from households and other origins similar to households, and 70 % preparing for re-use, recycling and other recovery of construction and demolition waste.

3.4.13 The rWFD requires that Member States adopt waste management plans and waste prevention programmes.

3.4.14 Much of the requirements of the rWFD are implemented by UK or English legislation (for example the Environmental Permitting Regulations). The provisions to sever the legislative links with the rWFD in such legislation will be confirmed as the UK progresses its negotiations for leaving the EU.

Environmental Protection Act 1990 Part II – Controlled Waste and Duty of Care

3.4.15 This is the UK Act of Parliament that makes provision for the management of wastes to avoid pollution.

3.4.16 It sets the rules for the management of controlled wastes and identifies the waste Duty of Care, which places an obligation on person who imports, produces, carries, keeps, treats or disposes of controlled waste, including householders, commercial producers and industrial producers of waste.

The Environmental Permitting (England and Wales) Regulations 2016 (as amended)

- 3.4.17 The Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154) ('the Environmental Permitting Regulations') consolidate earlier amendments to the Environmental Permitting (England and Wales) Regulations 2010 (S.I. 2010/675). They set out an environmental permitting and compliance regime that applies to various activities and industries, including the management of waste.
- 3.4.18 The environmental permitting regime is a common framework for applying for, receiving, varying, transferring and surrendering permits, along with compliance, enforcement and appeals arrangements. It rationalises the previous permitting and compliance regimes into a common framework that is easier to understand and simpler to use. A key component is that it allows applicants that would otherwise require several permits for activities falling under various regulations on a single site to complete a single application, and to be issued with one permit.
- 3.4.19 The framework introduces different levels of control, based on risk: exclusions (very low risk activities which may be undertaken without any permit), exemptions (lower risk activities which may be undertaken after registering, which is free), standard rules permits (standard requirements and conditions for the relevant activities are set out so that applicants can determine in advance whether the permit is applicable to their proposals) and bespoke permits (permits written specifically for activities which are unique or of higher risk).
- 3.4.20 The Environmental Permitting regime relies on the principle of using the 'Best Available Technology' (BAT). The BAT guidelines for thermal treatment were amended in December 2019 in the 'Waste Incineration (WI) BAT Reference (BREF) document' (European IPPC Bureau, 2019) prepared by the European Commission and implemented by 'Commission Implementing Decision (EU) 2019/2010 of 12th November 2019 establishing the best available techniques (BAT) conclusions, under Directive 2010/75/EU of the European Parliament and of the Council, for waste incineration (notified under document C(2019) 7987)'.

The Waste (England and Wales) Regulations 2011

- 3.4.21 The 2011 Waste Regulations (S.I. 2011/988) transposes the rWFD in England and Wales. In addition, it reduced the fragmentation of waste legislation to some extent and so it streamlines and replaces some waste regulation, in particular the subordinate legislation relating to the registration of waste carriers and brokers and to the "duty of care".

3.4.22 Key provisions in the rWFD were implemented by the Waste Regulations:

- Waste hierarchy: legal requirement the waste hierarchy for waste prevention and management in legislation and policy.
- Separate collections (household waste): set up separate collection (as a minimum) for paper, metal, plastic and glass by 2015, *“where technically environmentally and economically practicable and appropriate”*.
- Separate collections (private companies): From 1st January 2015: (1) businesses which collect waste paper, metal, plastic or glass need to collect such waste separately; and (2) businesses which collect, transport or receive separately collected waste paper, metal, plastic or glass should ensure that such waste is not mixed with other waste.
- Waste carrier and broker registration: Registration is required for all those that *“normally and regularly transport waste, whether the waste is produced by them or others”*. The Regulations introduced a new two-tier system for registration.

Hazardous Waste Regulations 2005 (as amended)

3.4.23 Waste is generally considered hazardous if it (or the material or substances it contains) are harmful to humans or the environment. All producers and holders of hazardous waste are obliged to ensure that the hazardous waste does not cause harm or damage. All producers and holders of waste are obliged to know whether their waste is classified as hazardous or non-hazardous.

3.4.24 The Hazardous Waste Regulations (S.I. 2005/894) identify the administrative provisions for handling hazardous waste. The regulations also make it illegal to mix a hazardous waste with either non-hazardous or another hazardous waste.

Planning Policy

A Green Future: Our 25 Year Plan to Improve the Environment (Defra, 2018)

3.4.25 The Government’s environment Plan sets out goals for improving the environment within a generation and leaving it in a better state. In terms of waste management, it seeks to minimise waste, reuse materials and manage materials at the end of their life to minimise the impact on the environment, by:

- *“Working towards the ambition of zero avoidable waste by 2050.*
- *Working to a target of eliminating avoidable plastic waste by end of 2042.*

- *Meeting all existing waste targets – including those on landfill, reuse and recycling – and developing ambitious new future targets and milestones.*
- *Seeking to eliminate waste crime and illegal waste sites over the lifetime of this Plan, prioritising those of highest risk. Delivering a substantial reduction in litter and littering behaviour.*
- *Significantly reducing and where possible preventing all kinds of marine plastic pollution – in particular material that came originally from land.” (Section 8: Minimising waste)*

National Planning Policy Framework (Ministry of Housing, Communities and Local Government (MHCLG), 2019a)

3.4.26 The National Planning Policy Framework (NPPF) (MHCLG, 2019a) sets out the Government’s planning policies for England and how these are expected to be applied. It does not contain specific waste policies. Instead, Paragraph 4 indicates that the NPPF should read in conjunction with the UK Government’s National Planning Policy for Waste (MHCLG, 2014a); and Paragraph 8 identifies that minimising waste and pollution is a fundamental part of the environmental role of the planning system. The NPPF states that the policies contained within it are not specifically relevant to NSIPs, but there may be some matters of relevance to determination.

3.4.27 One of the main aims of the NPPF is to ensure policies and Local Plans favour sustainable development. The planning system has three overarching objectives which are economic, social and environmental which are to be delivered through the application of the Framework policies and through the preparation and implementation of effective plans.

3.4.28 The NPPF encourages local planning authorities to prepare Local Plans that, so far as practicable, take account of the contribution that substitute or secondary and recycled materials and minerals waste would make to the supply of materials, before considering extraction of primary materials, whilst aiming to source minerals supplies indigenously. The assessment for the proposed Facility should therefore have regard to the requirements of the relevant Local Plan in terms of waste management.

Our Waste, Our Resources: A Strategy for England (Defra, 2018)

3.4.29 Defra launched its strategy for waste and resources, ‘Our Waste, Our Resources: A Strategy for England’ in December 2018. The Strategy provides a focus on solutions that will reduce the country’s reliance on single-use plastics, provide clarity on household recycling, and provides measures to manage packaging and

food waste. Its purpose is to provide policy direction in line with Government's 25 Year Environment Plan (see above).

- 3.4.30 The Strategy's timeline of targets shows those on recycling household waste and disposal to landfill remaining pegged to the EU's CEP of legislation (see above in **Legislation Section**).
- 3.4.31 An aim of the Strategy is to focus on 'Resource recovery and waste management' (Chapter 3 of the Strategy). Part of this involves the promotion of UK-based recycling and export less waste to be processed abroad; and to drive greater efficiency in EfW facilities. Furthermore, the Strategy aims to implement the waste hierarchy for hazardous wastes.
- 3.4.32 These specific aspects represent the aims of the proposed Facility in managing RDF within the UK, providing an efficient EfW Facility and converting the hazardous air pollution control residues into a recycled aggregate product.

National Planning Policy for Waste (Department for Communities and Local Government (DCLG), 2014a)

- 3.4.33 The National Planning Policy for Waste (DCLG (now MHCLG), 2014a) maintains the core principles of the 'plan led' approach, with a continued focus of moving waste up the waste hierarchy. It sets out detailed waste planning policies and aims to deliver the UK's waste ambitions through:
- *“Delivery of sustainable development and resource efficiency, including provision of modern infrastructure, local employment opportunities and wider climate change benefits, by driving waste management up the waste hierarchy;*
 - *Ensuring that waste management is considered alongside other spatial planning concerns, such as housing and transport, recognising the positive contribution that waste management can make to the development of sustainable communities;*
 - *Providing a framework in which communities and businesses are engaged with and take more responsibility for their own waste, including by enabling waste to be disposed of or, in the case of mixed municipal waste from households, recovered, in line with the proximity principle;*
 - *Helping to secure the re-use, recovery or disposal of waste without endangering human health and without harming the environment; and*
 - *Ensuring the design and layout of new residential and commercial development and other infrastructure (such as safe and reliable transport links) complements sustainable waste*

management, including the provision of appropriate storage and segregation facilities to facilitate high quality collections of waste.” (Paragraph 1)

3.4.34 It requires local planning authorities to have regard to its policies when discharging their responsibilities to the extent that they are appropriate to waste management. Increasingly local authorities are working together in partnerships to deliver full and efficient waste services; a requirement of the duty to cooperate in Section 110 of the Localism Act 2011. The document sets out detailed waste planning policies to facilitate a more sustainable and efficient approach to resource use and management, for example by ensuring the design and layout of new infrastructure complements sustainable waste management.

Waste Management Plan for England (Defra, 2013)

3.4.35 The key aim of The Waste Management Plan for England (Defra, 2013) is to work towards a zero-waste economy as part of the transition to a sustainable economy. The wastes covered by the plan are municipal waste, industrial (including agricultural) and commercial waste, construction and demolition waste and hazardous waste.

3.4.36 The Plan is non-site specific. It evaluates how it would support implementation of the objectives and provisions of the rWFD (Directive 2008/98/EC).

3.4.37 The Plan includes using the ‘waste hierarchy’ (waste prevention, re-use, recycling, recovery and finally disposal as the last option) as a guide to sustainable waste management. One aim is to have the appropriate waste reprocessing and treatment infrastructure at all levels of the waste hierarchy.

3.4.38 ‘Proximity Principle’ as established in the rWFD, requires waste to be disposed of, or recovered in one of the nearest appropriate installations, by means of the most appropriate methods and technologies to ensure a high level of protection for the environment and public health. The rWFD also requires Member States to move towards the aim of self-sufficiency in waste disposal and recovery of waste. This is within the context of the requirement on Member States to establish an integrated and adequate network of waste disposal facilities for recovery of mixed municipal waste collected from private households. The requirement included where such collection also covers waste from other producers.

3.4.39 Approximately 2.9 million tonnes of waste derived fuel is exported from England alone (Environment Agency, 2018), to northern continental Europe and Scandinavia for energy recovery by incineration. Therefore, in line with the proximity principle, the proposed Facility seeks to move the recovery of energy to

closer to the point of production and ensure that England is more self-sufficient in managing its own waste.

Waste Prevention Programme for England (Defra, 2013)

3.4.40 The Government-developed Waste Prevention Programme for England in 2013 is a requirement of the revised Waste Framework Directive and sets out the key roles and actions which should be taken to move towards a more resource efficient economy. As well as describing the actions the Government is taking to support this move, it also highlights actions businesses, the wider public sector, the civil society and consumers can take to benefit from preventing waste. Using resources more efficiently, designing and manufacturing products for optimum life and repairing and reusing more items could save money and provide opportunities for economic growth at the same time as improving the environment.

A Strategy for Hazardous Waste Management in England (Defra, 2010)

3.4.41 'A Strategy for Hazardous Waste Management in England' (Defra, 2010) sets out the principles for the management of hazardous waste and helps waste producers and managers:

- make the right decisions about their waste; and
- identify the available treatment facilities available.

Marine Policy

3.4.42 The Marine Policy Statement (MPS) issued in 2011 is the framework for preparing Marine Plans and taking decisions affecting the marine environment. It will contribute to the achievement of sustainable development in the United Kingdom marine area. It provides the high-level policy context within which national and sub-national Marine Plans will be developed, implemented, monitored, amended and will ensure appropriate consistency in marine planning across the UK marine area.

3.4.43 The "UK marine area" includes the territorial seas and offshore area adjacent to the UK, which includes the area of sea designated as the UK Exclusive Economic Zone (the Renewable Energy Zone until the Exclusive Economic Zone comes into force) and the UK sector of the continental shelf. It includes any area submerged by seawater at mean high water spring tide, as well as the tidal extent (at mean high water spring tide) of rivers, estuaries and creeks, and therefore includes that part of The Haven falling within the Application Site.

3.4.44 The East Inshore and East Offshore Marine Plans document was published in April 2014 (Defra, 2014) with the East Inshore Plan Area covering the tidal parts

of The Haven. Marine Plans together with the UK Marine Policy Statement underpin the planning system for England's seas. The marine plans do not establish new requirements but apply or clarify the intent of national policy in the plan areas, taking into account the specific characteristics of the areas.

- 3.4.45 Sections of the MPS and East Inshore Plan with relevance to the Facility are covered within **Chapter 15 Marine Water and Sediment Quality, Chapter 16 Estuarine Processes, Chapter 17 Marine and Coastal Ecology and Chapter 18 Navigational Issues.**

Planning Practice Guidance

- 3.4.46 The NPPF is supported by Planning Practice Guidance (PPG) notes, which were first published in March 2014 and are regularly updated and provide guidance on implementing the NPPF policies. The sections of the PPG of relevance to the Facility are listed below and discussed further in the relevant technical chapters:

- Air quality (MHCLG, 2019b; see **Chapter 14 Air Quality**);
- Environmental Impact Assessment (MHCLG, 2020);
- Flood risk and coastal change (MHCLG, 2014b; see **Chapter 13 Surface Water, Flood Risk and Drainage Strategy**);
- Healthy and safe communities (MHCLG, 2019c; see **Chapter 22 Health**);
- Natural environment (MHCLG, 2019d; see **Chapter 9 Landscape and Visual Impact Assessment**);
- Noise (MHCLG, 2019e; see **Chapter 10 Noise and Vibration**); and
- Travel Plans, Transport Assessments and Statements (MHCGL, 2014c; see **Chapter 19 Traffic and Transport**).

Local Planning Policy

- 3.4.47 Paragraph 4.1.5 of NPS EN-1 (DECC, 2011a) states that:

“Other matters that the IPC may consider important and relevant to its decision-making may include Development Plan Documents or other documents in the Local Development Framework. In the event of a conflict between these or any other documents and an NPS, the NPS prevails for the purposes of IPC decision making given the national significance of the infrastructure.”

- 3.4.48 The local planning policy and guidance documents which are of relevance to the Facility are as follows:

- South-East Lincolnshire Local Plan (South-East Lincolnshire Joint Strategic Planning Committee, 2019);
- The Lincolnshire Minerals and Waste Local Plan (LCC, 2016);
- The Lincolnshire Mineral and Waste Local Plan Site Allocations document (LCC, 2017);
- Boston Borough Local Plan (Boston Borough Council (BBC), 1999);
- Lincolnshire County Council (LCC) Environmental Policy (2007);
- Lincolnshire Biodiversity Action Plan (3rd Edition) (Lincolnshire Biodiversity Partnership, 2011);
- Lincolnshire Local Transport Plan (4th Edition) (LCC, 2013);
- Lincolnshire Network Management Plan (LCC, 2018a);
- Boston Transport Strategy 2016-2036 (BCC, 2017);
- Greater Lincolnshire Strategic Economic Plan (GLLEP) (GLLEP, 2016); and
- Joint Health and Wellbeing Strategy for Lincolnshire (LCC, 2018b).

3.4.49 The local planning policies detailed below were therefore considered in this ES as being pertinent to the proposed Facility. Local policies specific to each technical topic are detailed in the respective chapters.

The Lincolnshire Minerals and Waste Local Plan (LCC, 2016)

3.4.50 The Lincolnshire Mineral and Waste Local Plan (LMWLP) (LCC, 2016) Core Strategy and Development Management Policies promote the reduction in waste disposal to landfill, and an increase in waste prevention/minimisation, ensuring waste is reused, recycled, composed or subjected to energy recovery. In accordance with Planning Practice Guidance, the Council will not prescribe waste management technologies to deal with specific waste streams, to allow flexibility in the development of new and emerging waste technologies.

3.4.51 The majority of the policies of the LMWLP relate to waste management facilities (defined in the Plan as “*Facilities associated with the processing and disposals of waste materials*”). The purpose of the proposed Facility is to generate energy using RDF as a feedstock. Given that the feedstock comprises residual waste material, the following policies in the LMWLP are of relevance:

- Policy SL3: Waste Site and Area Allocations.
- Policy W3 Spatial Strategy for New Waste Facilities.
- Policy W4 sets out locational criteria for new waste facilities.

- Policy DM1 states that the County Council will take a positive approach in favour of sustainable development contained in the National Planning Policy Framework.
- Policies DM2 to DM16 (inclusive) identify subject-specific requirements for new waste development, such as emissions, heritage assets, landscape and townscape, biodiversity and ecology etc.

3.4.52 The Lincolnshire Minerals and Waste Local Plan Site Allocations document adopted in December 2017 identifies the Application Site as predominantly falling within 119 ha of land allocated as WA22-BO: Riverside Industrial Estate Waste Area. The allocation identifies a range of potential uses for the site comprising: Resource Recovery Park; Treatment Facility, Waste Transfer; Materials Recycling Facility; Household Waste Recycling Centre; Metal Recycling / End of Life Vehicles; Reuse Facility; Construction and Demolition Recycling; and Energy Recovery (LCC, 2017). The allocated area is identified in **Plate 3-1** below. Therefore, the criteria for Policies SL3, W3 and W4 are met.

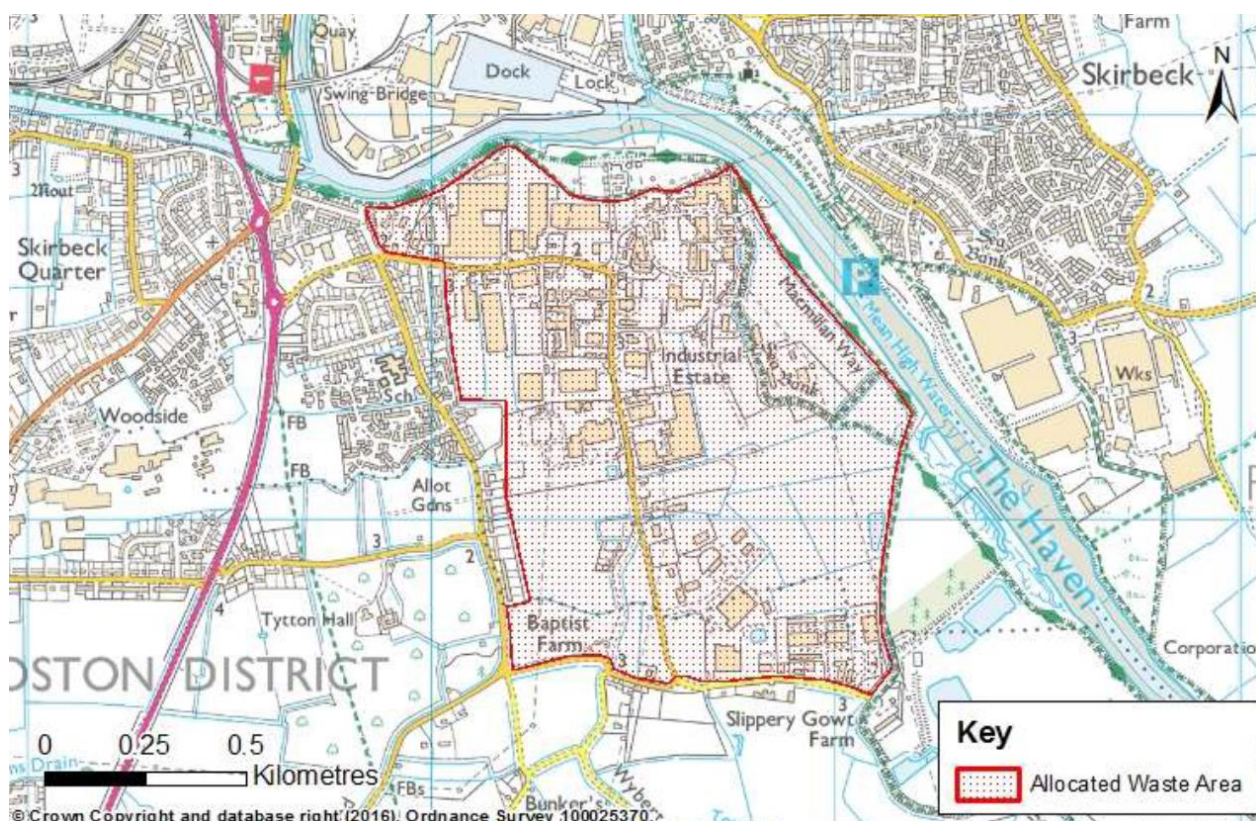


Plate 3-1 Allocation of Riverside Industrial Estate (WA22-BO)

3.4.53 The accompanying Sustainability Appraisal undertaken for the 'Site Locations' report confirms that the Application Site is suitable for potential waste uses,

including EfW projects.

South-East Lincolnshire Local Plan (South-East Lincolnshire Joint Strategic Planning Committee, 2019)

- 3.4.54 The South-East Lincolnshire Local Plan (SELLP) was produced jointly by BBC, South Holland District Council (SHDC) and LCC (collectively known as the South-East Lincolnshire Joint Strategic Planning Committee). The South-East Lincolnshire Local Plan was adopted on 8th March 2019 and will guide development in South-East Lincolnshire over the next 20 years.
- 3.4.55 The adopted Plan states that the Infrastructure Delivery Plan (PBA, 2016), produced to consider the infrastructure requirements relating to the growth aspirations detailed in the SELLP, identifies that energy supply is a critical service need. As part of the SELLP, the South-East Lincolnshire Joint Strategic Planning Committee has a requirement to monitor the number of planning applications approved for renewable and low carbon energy.
- 3.4.56 It is identified that 89.7 ha of the Riverside Industrial Estate is allocated for purposes of Business (B1), General industrial (B2) and Storage or distribution (B8). Part of the Application Site falls within this Local Plan allocation, with the remainder designated as countryside. However, it is noted that whilst the SELLP deals with all land use and development issues affecting South-East Lincolnshire, issues associated with minerals and waste are covered in the LMWLP.
- 3.4.57 The Riverside Industrial Estate is identified as site BO006 in the SELLP. The allocations for the site are identified below in **Plate 3-2**.

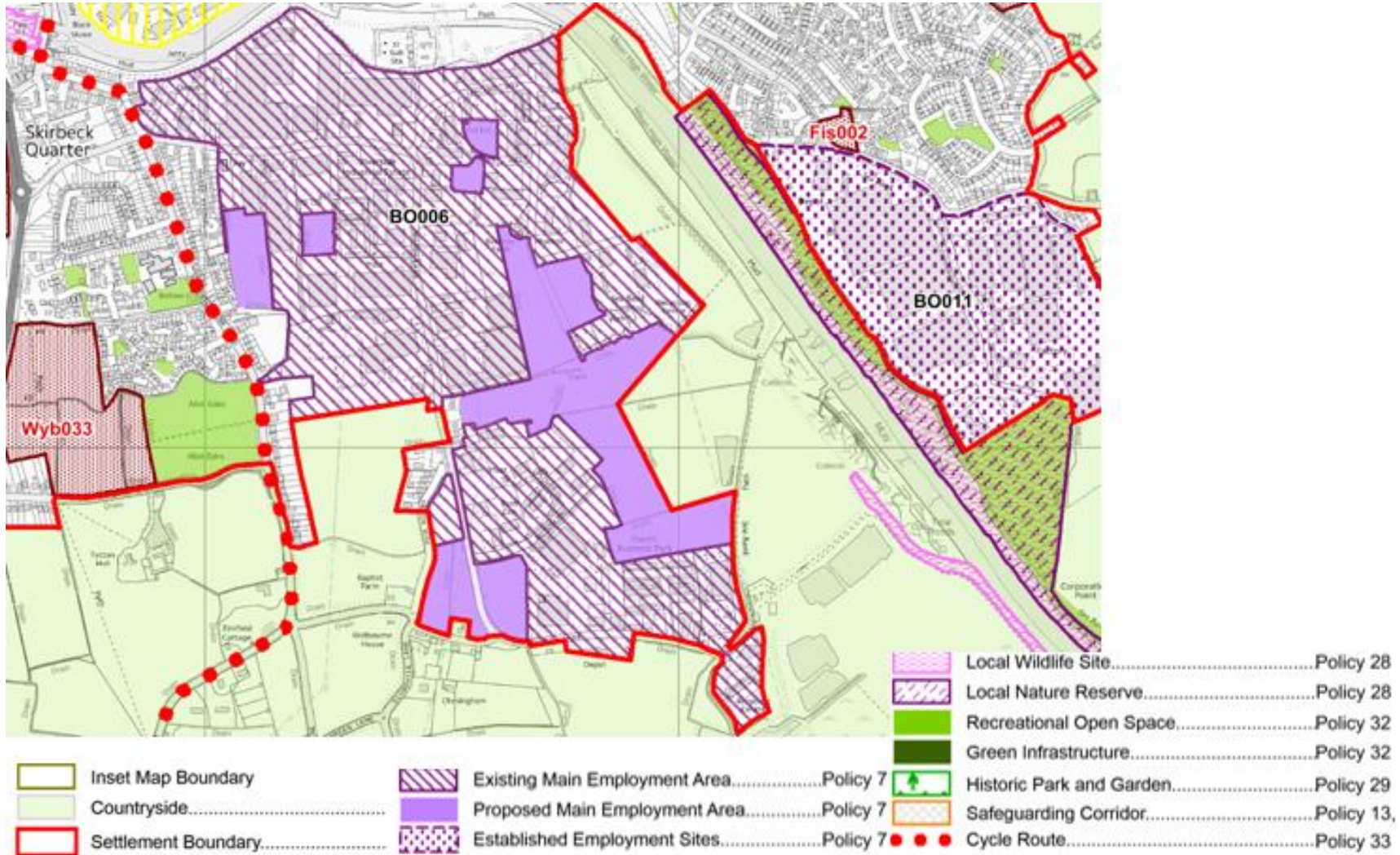


Plate 3-2 SELLP Allocation for Riverside Industrial Estate, BO006 (South-East Lincolnshire Joint Strategic Planning Committee)

- 3.4.58 Policy 31: Climate Change and Renewable and Low Carbon Energy of the SELLP states that the development of renewable energy facilities will be permitted where they do not result in significant harm to the environment, highway and aviation safety and agricultural land take (South-East Lincolnshire Joint Strategic Planning Committee, 2019).
- 3.4.59 However, the SELLP refers to principles that the DCO application for the Facility can consider. Policy 3: Design of New Development, seeks to ensure that development would not be wasteful in its use of energy or in its depletion of natural resources. Policy 3 provides guidance about waste minimisation, utilising renewable energy, and the sustainable use of existing materials on-site (e.g. reuse of excavated materials for landscaping or raising ground levels).

3.5 References

Boston Borough Council (BBC) (1999). Boston Borough Local Plan Adopted Version. April 1999.

Boston Borough Council with Lincolnshire County Council, 2017. Boston Transport Strategy 2016 -2036. [Online] Available at: <https://www.lincolnshire.gov.uk/Download/104017>

Department of Communities and Local Government (DCLG) (2014). National Planning Policy for Waste.

Department of Energy and Climate Change (DECC) (2011a). Overarching National Policy Statement for Energy (EN-1). London: HMSO.

Department of Energy and Climate Change (DECC) (2011b). National Policy Statement for Renewable Energy Infrastructure (EN-3). London: HMSO.

Department for Environment, Food & Rural Affairs (Defra) (2007). Waste Strategy for England 2007.

Department for Environment, Food & Rural Affairs (Defra) (2010). A Strategy for Hazardous Waste Management in England. A policy document issued by the Department for Environment, Food and Rural Affairs. March 2010.

Department for Environment, Food & Rural Affairs (Defra) (2013). Waste Management Plan for England.

Department for Environment, Food & Rural Affairs (Defra) (2014). East Inshore and East Offshore Marine Plans.

Department for Environment, Food & Rural Affairs (Defra) (2018). Our Waste, Our Resources: A Strategy for England.

European Commission (2015). Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions (Closing the loop – An EU action plan for the Circular Economy).

GLLEP (2016). Greater Lincolnshire LEP Strategic Economic Plan 2014-2030.

Lincolnshire Biodiversity Partnership (2011). Lincolnshire Biodiversity Action Plan 2011-2020 (3rd Edition).

Lincolnshire County Council (LCC), 2013. 4th Lincolnshire Local Transport Plan 2013/14 -2022/23. [Online] Available at: <https://www.lincolnshire.gov.uk//Download/102928>

LCC (2016). Lincolnshire Minerals and Waste Local Plan Core Strategy and Development Management Policies. Available at: <https://www.lincolnshire.gov.uk/directory-record/61697/core-strategy-and-development-management-policies> [Accessed: 25/06/2020].

LCC (2017). Lincolnshire Minerals and Waste Local Plan Site Locations. Available at: <https://www.lincolnshire.gov.uk/directory-record/63740/site-locations> [Accessed: 25/06/2020].

LCC (2018a). Lincolnshire Network Management Plan. [Online] Available at: <https://www.lincolnshire.gov.uk//Download/113304>

LCC (2018b). Joint Health and Wellbeing Strategy for Lincolnshire. June 2018.

Ministry of Housing, Communities and Local Government (MHCLG) (2014a). National planning policy for waste.

MHCLG (2014b). Planning practice guidance: Flood risk and coastal change.

MHCLG (2015a). Planning practice guidance: Renewable and low carbon energy.

MHCLG (2015b). Planning practice guidance: Waste.

MHCLG (2019a). National Planning Policy Framework. Available at: <https://www.gov.uk/government/publications/national-planning-policy-framework--2> [Accessed: 22/06/2020].

MHCLG (2019b). Planning practice guidance: Air quality.

MHCLG (2019c). Planning practice guidance: Healthy and safe communities.

MHCLG (2019d). Planning practice guidance: Natural environment.

MHCLG (2019e). Planning practice guidance: Noise.

MHCLG (2020). Planning practice guidance: Environmental Impact Assessment.

Peter Brett Associates LLP (PBA) (2016). South East Lincolnshire Infrastructure Delivery Plan 2016.

South-East Lincolnshire Joint Strategic Planning Committee (2019). South East Lincolnshire Local Plan 2011 – 2036. Available at: <http://www.southeastlincslocalplan.org/> [Accessed: 22/06/2020].

Waste Framework Directive (Directive 2008/98/EC) (2008). Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32008L0098> [Accessed 22/06/2020].