

## REPORT FOR THE WESTERN AREA PLANNING COMMITTEE

<b>Date of Meeting</b>	6 July 2022
<b>Application Reference</b>	PL/2021/10373
<b>Site Address</b>	Bekson Farm, 54 Whaddon Lane, Hilperton, Trowbridge, Wilts, BA14 7RN
<b>Proposal</b>	Permanent siting of a Biomass boiler and container for the control unit (retrospective)
<b>Applicant</b>	Bed It Limited
<b>Town / Parish Council</b>	Hilperton Parish Council
<b>Electoral Division</b>	Hilperton – Cllr Ernie Clark
<b>Grid Ref</b>	387564 - 160077
<b>Type of Application</b>	Minerals and Waste Application
<b>Case Officer</b>	David Cox

### Reason for the application being considered by Committee

This application has been called into Committee at the request of Cllr Ernie Clark should officers be minded to support the application to enable the elected members to consider the following matters:

- The environmental and highway impacts

Cllr Clark also requests consideration should be given to granting another temporary permission to properly assess the environmental impacts as the original (temporary permission) was mostly spanned the national lockdown period.

Cllr Clark also argues that *“the original (temporary) permission was justified on the basis of ‘a special temporary need’ – what has changed to now make this acceptable as a permanent feature?”*

### 1. Purpose of Report

The purpose of this report is to assess the merits of the proposal against the policies of the development plan and other material considerations and to consider the recommendation that the application should be approved subject to conditions.

### 2. Report Summary

The key determining planning issues are considered to be: The Principle of Development, Environmental Impacts (air quality) and Neighbouring Impacts, Highway Impacts and biodiversity

### 3. Site Description

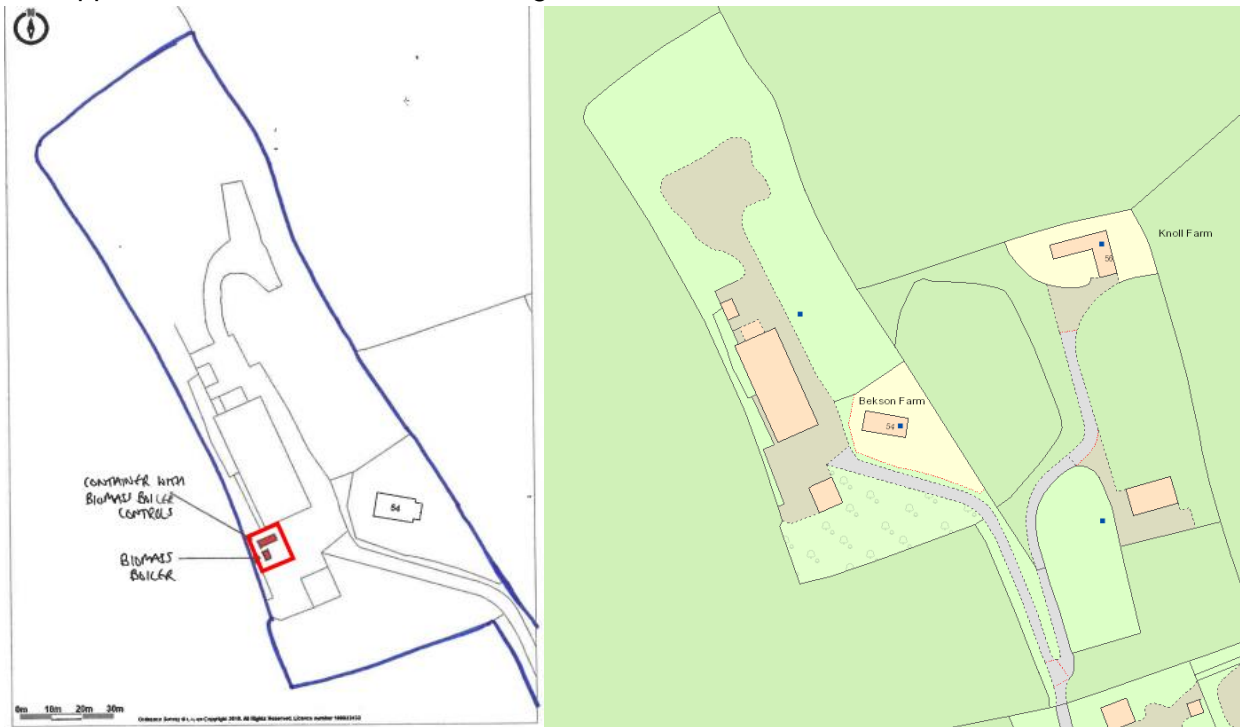
Bekson Farm is located along Whaddon Lane, to the east of Hilperton and is approximately 420m outside the limits of development (of the large village as defined in the Wiltshire Core Strategy). As Whaddon Lane passes the Village Hall and nursery on the right, the road narrows to near single lane width as you pass New Barn Farm on the left. From New Barn Farm it is approximately 400m to the application site where there are two informal passing points near to an agricultural field access and the access to a stable block known as *‘Land West of Merryfield’*.

The access into the application site from Whaddon Lane is defined by a fairly large concrete apron that also provides access No 50 Merryfield. There is then an approximate 100m long private road which then splits to Bekson Farm on the left and Knoll Farm to the right.

Bekson Farm includes a residential bungalow (which has an agricultural tie) and two barns. The first larger barn (to the north of the boiler) used to be a piggery first approved under applications W/76/99848/HIS and

W/77/00333/HIS. The second barn (located to the south of the boiler) was approved under application 14/09400/FUL.

The small agricultural field to the east and north of the larger barn is understood to be used to grow hay. It is understood that the applicant runs a forestry and agriculturally linked businesses from the Bekson Farm site – with the application site and wider landholding shown below.



Site Location plan and Council mapping image of Bekson Farm and Knoll Farm



Council mapping image of the application site showing wider context in relation to Hilpertown



Google Street view image of the access to the application site from Whaddon Lane

There is only one residential property within the immediate vicinity of the application site, at Knoll Farm, where the boundary is approximately 50 metres away from the boiler, but its residential curtilage (shown in yellow on the previous page) is considered to be approximately 110 metres away. There are also a further three dwellings approximately 190 metres (and beyond) to the south east of Bekson Farm.

On previous site visits the case officer viewed the smaller modern barn and confirmed that it is used for agricultural storage (which included tractor storage).

#### **4. Planning History**

In the applicants supporting statement it is asserted that the boiler has been on site since c2016 without any planning enforcement or environmental health complaint being made to Wiltshire Council.

The boiler was given a temporary two-year planning permission on 10 February 2020 under application 19/06300/WCM – under the proposal for the *change of use to allow a waste recovery operation and Siting of a Biomass boiler and container for the control unit*.

Whilst the temporary permission has now expired, this application that sought permanent permission was validated by the Council on 19 November 2021, three months or so prior to the temporary permission expiration date.

Application 19/06300/WCM was granted subject to 5 planning conditions.

Condition 1 set out the terms of the temporary permission and read:

*1. The Boiler and its flue, the boiler control container and all connecting apparatus hereby permitted shall be removed, and the use (the production of wood chip) hereby permitted shall be discontinued, and the land restored to its former condition (hardstanding) on or before 10 February 2022 in accordance with a scheme of work submitted to and approved in writing by the Local Planning Authority.*

*REASON: In the interests of residential amenity, in order to secure the restoration of the land upon removal of the boiler and use for which permission can be justified only on the basis of a special temporary need*

Condition 2 was the approved plans list.

Condition 3 required a boiler management plan (which was discharged on 22 November 2021).

Condition 4 limited the use and operation of the boiler between 6am and 6pm Monday to Friday (with no operation on Saturdays, Sundays or Bank Holidays).

Condition 5 limited the applicants to only being able to dry two container loads of wood chip on the site each week.

Conditions 1, 3, 4 and 5 were all added to protect residential amenity of the surrounding neighbouring buildings and to limit the potential amount of vehicle journeys to the site.

The decision notice for 19/06300/WCM also included two planning informatives to further explain the reason for the temporary permission and to help with the operation of the boiler at Bekson Farm to potentially reduce its impact on neighbouring amenity. These informatives read as follows:

*“The applicant is respectfully advised to continue to consider increasing the height of the flue and/or to move the boiler to the other side of the former piggeries barn. Should an Environmental Health complaint be received, and is upheld within the next two years, further planning permission would be likely to be very difficult to obtain once this temporary permission expires. In any such circumstances significant alterations and/or further evidence will be required to satisfy that the boiler can operate without causing potential harm to neighbouring amenity.*

*The applicant is respectfully advised to consider finding a storage solution, to be able to store all wooden pallets and logs for combustion in the boiler, under cover, as the moisture content of the pallets will affect the rate that they burn and how much smoke and fumes they produce. This may require securing planning permission for a further structure on site.”*

For the avoidance of any doubt, when this latest application was received by the planning team, these suggestions were put to the applicant who responded that it would be too expensive to move the boiler, as new concrete foundations would be required as well as getting a new water and electricity supply to the boiler, and that the cost of moving and re-installing the boiler itself were prohibitive. Officers argue that should the boiler be located at the northern end of the applicant's land ownership in the blue outline insert, the impact on neighbouring amenity would be significantly reduced. However, the Council cannot force the applicant to change their proposal or to increase the flue height and is instead, duty bound to consider the application as submitted, which is to retain the boiler in its current position and with its existing 4m flue height.

## **5. The Proposal**

The proposed boiler is a Glen Farrow 295kw commercial Biomass boiler which, according to the Manufactures details, uses wood or straw. The heat from the boiler is used to dry woodchip in a separate container that is created from the applicant's forestry work.

The boiler comprises of a blue metal 'box' with 4m high flue. It is connected to a rectangular blue container unit which houses the control unit – which turns the boiler on and off and sets the combustion and efficiency rate of the boiler.



**On site view of the boiler (and control room) and drying containers with the two existing agricultural buildings either side**

The boiler is powered by burning wooden pallets which are sourced from a local factory (the Consortium Education – approximately 1 and half miles away) and the material is collected by the applicant. The only pallets that are accepted for the boiler are unpainted and non-treated pallets. The pallets are mostly stored outside without any cover. The heat generated from the boiler is used to dry wood chip which is dried in a further open top container located immediately next to the boiler, connected by pipework. The wood chip is sourced from associated businesses (e.g., tree surgeons and forestry work undertaken by the applicant) where waste timber is brought to the site, chipped and then added to the container for drying. The dried woodchip is then sold on for biomass boilers to use.

The pallets are stated to only be used to run the boiler and are not to be turned into wood chip. The applicants also state that they try to not run the boiler when there is a south westerly wind.

Within the initial submission for this application the applicant argued that due to there being no enforcement or Environmental Health related complaints, the hours of operation duly conditioned under the temporary permission, should be extended to include Saturdays from 8am-4pm and at similar times on Sundays. However, following negotiations between the applicants and the case officer they have agreed to adhere to the previously controlled operating restrictions.

Under the temporary approved arrangements, the applicant was able to dry up to 2 containers of woodchip each week although it was often the case that 1 to 1.5 containers a week were produced. The applicant has argued that each container load requires 30 hours each to dry, and it should be noted that the controlled hours of operation of 6am-6pm Monday to Friday (a total of 60 hours) was specifically intended to give the applicants sufficient time to dry up to two container loads per week, whilst allowing any affected neighbour sufficient respite from dispersed smoke or fumes in the evening and over the whole weekend and any bank holiday.

For this application which seeks permanent permission, the applicants have submitted the following supportive documents:

- A Design and Access Statement
- The Glen Farrow GF295 Boiler manufacturing details
- An Air Quality Report by Air Quality Consultants dated December 2019

- A Biofuel analysis report
- A Boiler service record
- An Updated Boiler Management Plan
- RHI Certificate and Emissions Certificates

For the avoidance of any doubt, in relation to the RHI (renewable heat incentive) certificates, the applicant has produced certificates that refer to different boiler models than the GF295. It is not considered that this is a planning or environmental health matter since the RHI scheme is primarily run by Ofgen and allows boiler owners to make certain claims. As far as this application is concerned, the boiler is the GF295 model which can burn wood or straw and the application is supported by an Air Quality report (which specifically states that they have modelled the GF295 boiler), which was the same boiler that was duly referenced as part of the 19/06300/WCM application. The anomaly with the RHI certificates would be a matter for Ofgen and should not be a material planning consideration that influences the determination of this application.

## **6. Planning Policy**

### National Context:

The National Planning Policy Framework 2021 (NPPF) and Planning Practice Guidance (PPG)

### Local Context:

The Wiltshire Core Strategy (adopted Jan 2015): CP1 – Settlement Strategy; CP2 – Delivery Strategy; CP29 – Spatial Strategy Trowbridge; CP42 - Standalone Renewable Energy Installations; CP51 - Landscape; CP55 Air Quality; CP57 – Ensuring High Quality Design and Place Shaping; CP60 – Sustainable Transport; CP61 – Transport and New Development; CP64 – Demand Management.

Hilperton Neighbourhood Plan – paragraph 4.15 Air Quality and environmental pollution

Wiltshire and Swindon Waste Core Strategy 2006-2026 - Policy WCS3

- Air Quality Strategy for Wiltshire 2019-2024

Further Policy background Air Quality;

## **Air Quality**

The Local Air Quality Management (LAQM) regime requires local authorities to assess air quality within their areas and declare an Air Quality Management Area where UK Air Quality objectives are or are likely to be exceeded. In Wiltshire, air quality is very good over the vast majority of the County. 8 Hotspots have been identified and Air Quality Management Areas declared as a result of exceedances of the annual mean for nitrogen dioxide. The source of this pollution is road transport.

## **Odour**

The Odour assessment is noted. It is based upon assumptions that the appliance is operated efficiently. The Public Protection Officers make recommendations below in relation to the management of the appliance.

## **Legislative Controls**

The Clean Air Act 1993 controls emissions of dark and black (not white) smoke emissions from commercial chimneys as determined using a Ringlemann chart and BS2742:1969. There are however exemptions in the legislation and defences relating to start up processes and unforeseen malfunctions. The Environmental Protection Act 1990 contains provisions relating to smoke odour and similar nuisances; and where a Statutory Nuisance is found to exist, an abatement notice can be served – which is separate to the planning regime. This Act also contains a statutory defence termed “best practicable means” which affords users/businesses

a reasonable defence themselves against such a charge where they can evidence that they are taking all reasonable precautions possible to prevent a nuisance.

## **7. Consultations**

Hilpertown Parish Council – Strongly objects and argued that “We are unable to ascertain what is being burned and in what quantities and whether or not the boiler is certified to burn wood. If it is, there should be measures in place to ensure the applicant is using wood that is not treated in any way. We would like to know what pollutants, if any, are being emitted and would question, in any case, the suitability of the site for an industrial – not agricultural – biomass boiler so close as to have an impact on neighbouring properties and farmland, and also very near to the pre-school and the village hall. The considerable numbers of vans driving to and from the site each week, using the very narrow, single-track lane, is already having an impact on other road users, including local residents, cyclists, walkers and horse riders”.

Wiltshire Council Environmental Health Officer – No objection subject to conditions: The consultation response dated 18 February 2022 stated the following:

*I have considered the application at length, assessed the objections raised, consulted with DEFRA and the Environment Agency and visited the site several times.*

*Firstly, to confirm that the process does not currently require an Environmental Permit; neither an Environmental Permitting Regulations Section 5.5 Part A process for the production of fuel from waste (issued by the Environment Agency) nor a Part B Environmental Permit. These are issued by this authority, and I have considered both a potential for an Incineration of Waste Process at the site and also one for Processing of Wood, but the boiler capacity is below the threshold to require the former and the volume of wood processed is currently below the threshold for the latter. We have agreed to continue to monitor this with the applicants who are aware of the requirement for a Permit should the threshold be exceeded. The Environment Agency have also confirmed that the process does not need to be registered as a waste management operation.*

*Although there is local resistance to the process in operation here, we have not received any complaints in respect of the operation of the boiler despite it having been in operation for 5 years now. Temporary permission was granted partially to allow us to monitor its performance and there would not seem to be a significant risk to local amenity as a consequence of its operation. The restricted hours of operation would seem to help with this, and I would support their retention in any full planning permission granted (including no burning at weekends or on bank holidays).*

*Nevertheless, I do feel that a degree of control is required to stop the potential for any inefficient use of the boiler; for example, incineration of treated wood or plastics and also to ensure that all wood burnt is suitably dry in order to minimise emissions. These are issues that could have been covered by an Environmental Permit, however, as explained one is not currently needed. Therefore, I request that either the following conditions are applied to any planning permission granted or that the applicants revise the Site Boiler Management Plan, ‘Management Plan for the Operation of a Glen Farrow UK Ltd Biomass Boiler Model GF295’ in order to refine how they propose to use the boiler in order to minimise the risk of unnecessary pollution and/or impact upon local amenity. We could then approve the plan and condition compliance with this. I have attached the current document for reference.*

- A daily log is to be kept of weather conditions, time of operation of the boiler (start and finish time noted) and the type and moisture content of all wood burnt. This can be electronic but will need to be available for inspection by this authority on request.*
- No treated wood (painted, treated with preservative) shall be burnt. All such wood received and rejected for burning is to be kept in a separate area and a record kept of when it is taken away and by whom.*
- No plastic waste is to be burnt; this includes any residues attached to wood to be burnt.*



- Confirmation that no wood is to be burnt that does not meet the requirements for moisture content as currently set out in the Glenn Farrow UK Limited Boiler Management Plan; Waste pallets <18%, Soft and/or hard wood logs <23%. The current document does not clearly state what would happen if moisture content is above these levels.

- A spare moisture meter will be needed in case of malfunction of the unit in use or if it needs to be sent for service / calibration.

- All boiler waste is to be removed from site by a licensed waste contractor and a record kept in the log of when this is removed and by whom.

*I would also ask to add an informative that the boiler should not be operated if the wind is likely to take the smoke in the direction of the nearest receptor who I estimate to be 120m to the NE. The applicant should also be reminded that compliance with any boiler management plan conditions would not preclude this office taking formal action should a statutory nuisance ever be proven following receipt of complaint.*

**Follow up Environmental Health consultation response dated 20 June following receipt of the letter of representation from AVAL:**

*I've considered the Aval report submitted as a representation to the above application. Its undated and not signed so we cannot check the qualifications of the author in respect of Air Quality Modelling experience.*

*The Air Quality Consultants Air Quality Assessment submitted to support the application uses what the consultants claim to be 'state of the art' modelling and concludes that under optimal conditions the odour impact at the nearest receptors is negligible. They have also modelled a less ideal scenario with sub-optimal conditions and the impact at the nearest receptor would be slightly adverse. I note the cited professional experience of the author, Dr Evans, in respect of odour assessments and the use of ADMS 5 modelling and of Dr Beattie who has approved the document.*

*Our aim would be to ensure that the Boiler operates at optimal conditions at all times. We have asked that the applicants provide a revised Boiler Management Plan (BMP) to ensure this is the case. We could then condition that the plan be adhered to at all times. To be sure that this is the case, I would propose to undertake ad-hoc visits and to alert the Planning Enforcement team with my evidence if I considered that there was any evidence of non-compliance.*

*For reference, the revised BMP would ensure a number of key conditions are met including that no treated wood is burnt, no plastic is burnt, all wood is tested for moisture and nothing above agreed limits is burnt, and that all boiler waste is required to be removed by a licenced contractor and that the operators keep a daily log of start/ finish times and the weather conditions etc.*

*Environmental Health have received no complaints about odour in the 5 years that this facility has been operating and I am confident that, with proper management and appropriate checks in place, that this will continue.*

**Follow up Environmental Health consultation response dated 23 June:**

*Notwithstanding that the original boiler management plan was discharged on 22 November 2021, and that an updated version has been submitted, having further discussed with my manager it is clear that more detail will be required in the Boiler Management Plan.*

*Specifically, we would look for the applicants to reference the best practice set out in Section A5 of the Air Quality Assessment and I would also look to utilise guidance set out within the Process Guidance Note PG1/12(13); Statutory Guidance for Combustion of Waste Wood. We would be prepared to meet with them to finalise this document to ensure it would meet with our requirements.*



Wiltshire Council Highways Officer – No objection

Environment Agency – No comments

## **8. Publicity**

The application was initially publicly advertised through the display of a site notice at the site and 3 individually posted neighbour notification letters to local residents residing in properties along Whaddon Lane. However, a further consultation was carried out following the procedural and advertisement requirements in recognition of the waste recovery operation (which included re-consulting with third parties who responded to the initial consultation). An advert was also published in the Wiltshire Times with a consultation deadline ending on 17 June 2022.

In response to the public notification exercise, 7 letters of objection and 1 letter of support have been received. The objections and comments are summarised below:

- The boiler is unmonitored as is the type of waste burnt
- There has been burning on this site for years, but it has got worse recently
- There is a chance other (non permitted) materials are introduced into the boiler
- As regular dog walkers we are constantly aware of the regular burns that take place, usually just before darkness falls, with accompanying bad smells, and heavy smoke. It looks toxic, it smells toxic and my suspicion is it probably is toxic, Without proper monitoring the local people are at risk
- Without proper monitoring from Environmental Health, the local inhabitants are at an unknown risk
- The direction of wind flow is critical, ideally the system should only be activated when the wind blows from the South-east to ensure dispersal of toxins is largely into the least populated area. Time when there is little wind is the most dangerous, as the toxins hang over the village
- Enforcement complaints have not been submitted to the Council due to neighbours being reluctant to expose themselves to potential recriminations by the applicant
- Concern over fumes being close to the pre-school nursery potentially causing respiratory conditions as children often play outside whilst at school
- This is too close to the playing field (adjacent to village hall and nursery, which are in constant use for recreation and sports teams
- This will increase traffic down Whaddon Lane, which already travels too fast
- What additional measures would be put in place to prevent the burning of plastic waste which we have smelt on several occasions when and can visually see the thick black smoke
- The smoke forces windows to be shut and gardens not used as far away as dwellings on Greenhill Gardens, Hilperton
- The smoke is often very acrid, it makes us cough and the impact on our health worries us. It appears to be in near constant use and smoke was coming out for most of the weekend just gone (22/23 Jan 22).

Following the second consultation exercise period one further letter (although undated and unsigned) from Aval Consulting Group was received which asserted the following:

- Accept that the air quality report concludes that concentrations of pollutants of concern are below relative air quality objectives, there are concerns as to how realistic the results are due to the model inputs, reliability of sources and the general management practices of the biomass boiler.
- The model does not evidence the day-to-day practice at Bekson Farm.
- If fuel is not stored correctly it has potential to have high moisture content which would result in inefficient combustion.
- Treated wood can release toxic chemicals when burnt which are not accounted for in the air quality model
- Topography has not been considered in the air quality assessment and could impact on results given that some modelled receptors are located uphill from the boiler.
- We would have expected a period of air quality monitoring, rather than modelling, should have been carried out

- Not enough consideration has been given to the odour impact of the boiler which should also have been measured on site.
- Note that the impact on Knoll Farm is 'slight-adverse' but no mitigation measures have been implemented. How does the applicant plan on preventing these adverse impacts?
- The impacts of the boiler will depend on how well the boiler is maintained and operated. There are a range of conditions which would affect its operation including over-filling, low furnace temperature, inadequate ventilation, fuel with high moisture content and different fuel types, all of which can result in incomplete combustion which causes smoke and odour
- How does the LPA propose to monitor and manage the operations of the boiler?
- Concern largely lies with there are reasons to believe that the boiler is not operated or managed as it should be and not with the methodology of the air quality assessment.
- Suggest ad-hoc visits by the LPA, period of air quality monitoring, site visits by an air quality consultant and a full operational management plan submitted to the LPA.

One letter of support was also received which can be summarised as follows:

- We are a local business based on Whaddon Lane and the applicants have supplied us for the last couple of years with dried wood chip to use as cattle bedding. By being able to buy this source of bedding so local, allows us to keep food miles down and a lower our own carbon footprint.

Officers note that 4 individuals have raised concern about "*treated pallets and plastic waste being burnt in the boiler...creating acrid and toxic smoke*". In response, the third parties were invited to present logbook records to substantiate the allegations but to date no such evidence has been received by the Council.

Officers are fully appreciative of the fact that the temporary permission has expired, and that any use of the boiler is a breach of planning control and should this application be refused, the planning enforcement team leader has confirmed that his team will take the appropriate action as necessary and in the public interest.

## 9. Planning Considerations

Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require that the determination of planning applications must be made in accordance with the Development Plan unless material considerations indicate otherwise.

### 9.1 Principle of Development

9.1.1. WCS paragraph 6.38 states that CP42 (standalone renewable energy installations) applies to all types of renewable energy including biomass generators and other energy from waste technologies. It is therefore submitted that WCS CP42 applies to this application as the end product of this boiler, the dried wood chip for the supply of other biomass boilers, is considered to be a renewable source of energy. The woodchip for biomass boilers to run on has to come from somewhere and requires its own process before being used in biomass generators.

9.1.2. CP42 states that proposals for standalone renewable energy schemes will be supported subject to the satisfactorily resolution of all the site specifies constraints. Proposals will need to demonstrate how impacts on the following factors have been satisfactorily assessed, including any cumulative effects, and taken into account:

- i) The landscape
- iv) Biodiversity
- vi) Use of local transport network
- vii) Residential amenity (including noise, odour and visual amenity and safety) and
- viii) Best and most versatile agricultural land

Therefore, subject to satisfying the above criteria, which shall be addressed in each section of this report, the principle of development under WCS CP42 is supported.

9.1.3. In regard to the land designation, the red lined application site is grade 3 agricultural land. Council records do not show if it is 3a or 3b but it is important to appreciate that this proposal does not constitute a loss of agricultural land. Council aerial photographs dating back to 2001 show that the application site was already laid to hardstanding at the time the main barn was used as a piggery, and consequently it has not in recent years been actively available for intensive high yielding crop production.

9.1.4. Furthermore, whilst the temporary permission has now expired it is still a recent planning permission that merits being given material weight in the planning balance. The reason for the temporary permission was “in the interests of residential amenity”, and in recognition that no environmental related health or planning enforcement complaints were received during the temporary period, officers submit that the application to gain full permanent permission should be granted. The planning informatives imposed on the temporary permission were very clear in terms of stating that *“Should an Environmental Health complaint be received, and is upheld within the next two years, further planning permission would likely be very difficult to obtain once this temporary permission expires”*.

## **9.2 Air Quality and the Impact on neighbouring amenity**

9.2.1. WCS CP57 (vii) requires development to have regard to the compatibility of adjoining buildings and uses and the impact on amenities of existing occupants, including the consideration of pollution e.g., smoke and fumes.

9.2.2. As part of the 19/06300/WCM application, the case officer and the previous Air Quality Environmental Health Officer undertook a planned site visit in August 2019. During the visit, officers observed a strong concentrated odour on the boundary with the closest neighbour Knoll Farm. This odour extended a significant distance down the access track – demonstrating that the odour could be experienced over a wide area. Officers did not visit Knoll Farm itself but given the intensity of the odour it is reasonable to conclude it would have also been present and observed within its own curtilage. However, it is important to note that the odour was only mostly noticeable to the east end of the bungalow at Bekson Farm. When stood at the western end of the building, the odour was not as intense or significant.

9.2.3. During the visit, the case officer and the Air Quality Officer reached the conclusion that the odour could have been caused by a number of factors. The wooden pallets being processed may not have been dry enough or that the boiler was not combusting correctly or efficiently enough, or that the flue was not high enough to disperse the fumes higher and wider. There was also the possibility that the boiler was burning treated wood – which at the time of the visit could not be discounted as officers did not see the content of the boiler before it was fired up. It was nevertheless noted that on the wooden pallet stacks there were several painted/treated pallets present.

9.2.4. The August 2019 site visit highlighted sufficient concern for officers to formally request that the applicant provides an explanation as to what caused the odour. The Air Quality Officer also confirmed that he was of the view *“that the smoke observed (in August 2019) could constitute a statutory nuisance if the biomass boiler is allowed to continue as it appeared...”* This led to the original submission of the Air Quality Statement by the applicant in December 2019 as detailed in the proposal section.

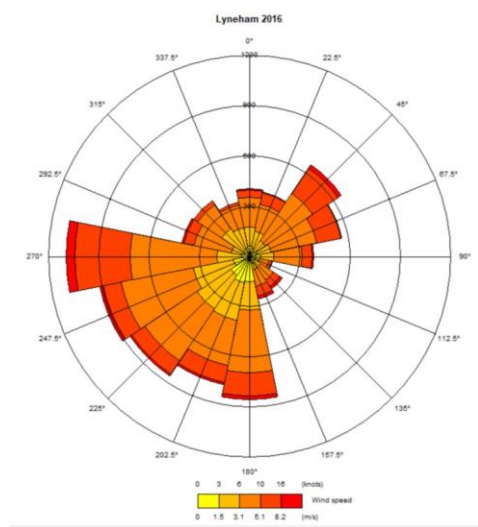
9.2.5. The Air Quality Officer later accepted that what was observed during the joint officer site visit in August 2019 could have been fumes being created from start-up procedures, which can be more intense until the boiler gets up to speed.

9.2.6. Following the August visit, the case officer undertook a second site visit which included a visit to Knoll Farm in December 2019, prior to the previous application being determined (which took until 10 February

2020). Despite it being a cold, foggy day, the case officer observed that wind was blowing eastwards towards Hilpert on that day and didn't notice any material odour at Knoll Farm.

9.2.7. According to appendix 3f of the Governments Offshore Energy Strategic Environmental Assessment (SEA) *"The prevailing wind direction varies between south-south-west and north-west, with north easterly winds increasing in late winter and spring"*. Therefore, the prevailing wind isn't solely from the southwest (which would blow smoke and odour towards Knoll Farm).

9.2.8 In the applicants Air Quality Report, wind rose data from Lyneham 2016 was submitted and is reproduced below. It shows that whilst there is a lot of wind from the south west, southerly winds are not uncommon (which would result in odour from the boiler bypassing Knoll Farm) and westerly winds which would blow over the agricultural land of Knoll Farm (and effectively miss the residential building and its curtilage) as well as easterly and northerly winds which would blow in the opposite direction to Knoll Farm.



Air Quality Report Section A1 Wind Rose Data (Lyneham 2015)

9.2.8. Officers submit that Knoll Farm's residential curtilage is considered to be fairly tight around the building as shown by the yellow infill highlight on the Council's snip image of the application site on the second page of this report. The curtilage is considered to be defined by a retaining brick wall, with the field between the wall and the boundary used by livestock.

9.2.9. For the purposes of this application, the case officer completed an (unannounced) site visit on 29 November 2021, first starting at Greenhill Gardens in Hilpert to check the boiler was in operation. The case officer then visited Knoll Farm for approximately two hours to observe odour from the operating boiler. For the first hour smoke from the boiler was blowing directly towards Knoll Farm and it was combined with chimney smoke coming from the residential unit of Bekson Farm (with weather records showing that it was 3 degrees at the time of the site visit).

9.2.10. For the avoidance of any doubt, the case officer is not an air quality or environmental health officer and can only report what he experienced and observed on site. In the first hour smoke was observed, however it did not appear acrid or toxic. It was not unlike walking in an urban location during the winter period when properties are using wood burners or open fires.

9.2.11. However, as soon as the first hour had past, the wind changed direction to a southerly direction and the smoke was redirected over the former piggery agricultural building. For the second hour, nothing material was observed at Knoll Farm.

9.2.12. In the first hour the case officer twice witnessed the boiler door being opened (presumably to re-fill with pallets) and during those times, a lot of smoke was produced and swirled around the site – which was carried with the wind initially towards Knoll Farm. During the second hour, the boiler door wasn't opened, by which time the wind direction had changed.

9.2.13 The application site is not in an Air Quality Management Area nor is it in an area of poor air quality. However, the applicant has provided an Air Quality Assessment which uses the IAQM guidance for Planning & Air Quality which is a non-statutory document and has no formal policy status. The guidance has not been adopted for use by the Council and it should be appreciated as the committee has been informed recently, that the Council's Public Protection Services continues to work on an emerging Air Quality SPD which will be published for consultation shortly.

9.2.14 The applicant's consultant wrongly refers to the Air Quality Strategy for Wiltshire 2011 which was superseded by a new document in 2019. The applicant's report is poorly presented with regard to air quality, but it is nevertheless the case that no exceedances are expected when tested against the LAQM Air Quality objectives. It would have been preferable to have seen data presented as relevant exposure in line with the LAQM. That said the report states that levels are below the 30.2ug/m<sup>3</sup> Annual mean for nitrogen dioxide which is lower than the threshold used by the document for quantifying any impacts on air quality – with paragraph 5.2 of the report setting out that the levels of PM<sub>10</sub> & nitrogen dioxide would be close to the background levels.

9.2.15 Following a full consultation and liaison with the Council's environmental health team, officers submit that the applicant's air quality report shows that when clean wood is burnt and there are 'optimal conditions' the impact on Knoll Farm, as modelled, would be negligible; and when there are sub-optimal conditions the effects are recorded as slightly adverse. Whilst the case officer's own site observations in late November was limited to a single site visit and for a two-hour duration, the level of harm duly experienced was not considered to be of a level that would warrant a refusal of the application.

9.2.16 It is acknowledged that some harm and the effects of the use of the boiler can be mitigated through restricting the use of boiler and the hours of operation condition. This would provide third party respite from smoke pollution every evening and weekend. Additionally, with the documented and evidenced wind direction variances, third parties within the most affected local area would not experience material smoke levels, It is however accepted that this will depend and vary with the time of year and the weather conditions.

9.2.17 When this application was first received, the applicants wanted to extend the hours of operation to include Saturdays and Sundays. Given that there have been 7 letters of objection, the majority of which cite smoke as an adverse issue, it is considered that conditions 3 and 4 (the hours of operation and the number of containers that can be dried each week) should be re-imposed on any grant of planning permission. Whilst no formal Environmental Health complaints have been received, representations have been received for this latest proposal. The delegated report for the temporary permission application 19/06300/WCM made it clear that a permanent permission would require a fresh review and imposition of planning conditions to restrict the hours of use of the boiler facility.

9.2.18 The applicant has also submitted, upon request from the Council's Environmental Health Officer an updated Boiler Management Plan. The plan includes details the processes to ensure the boiler is not overloaded, to keep it at a constant temperature and to fill the chamber at regular intervals. There is also a commitment to sample check the biomass fuel material with a moisture meter to ensure it has a low and appropriate moisture content range as specified by Ofgem and the accredited RHI scheme.

9.2.19 The updated plan included a commitment to have 2 moisture meters retained on site at all times, and that no plastic material or treated or painted wood is burnt and processed through the boiler. Any such wood received by the applicant in any consignment must be rejected for burning and it shall be stored in a separate area and a record kept of its disposal. All boiler waste is to be removed from site by a licenced waste contractor and records kept. The applicant is also willing to agree to keeping a daily log of the weather

conditions and times when the boiler is operated with start and finish times noted and the type and moisture content of all wood material being burnt.

9.2.20 However, pursuant to the Boiler management and use, the Council's public protection team have since requested a further and more robust updated management plan. It is therefore recommended that an updated boiler management plan is secured by planning condition and to require the applicant and users of the facility to set out what the applicants want to achieve from using the biomass boiler, how they are going to operate it on site and what they will do when there is a problem in terms of quickly addressing nuisances or harm to the environment and neighbouring amenity. It is furthermore recommended that the planning condition should specifically direct the applicants to apply best practices as set out within Section A5 of the Air Quality Assessment and accord with *Process Guidance Note PG1/12(13)*; *Statutory Guidance for Combustion of Waste Wood*.

9.2.21 Officers acknowledge that whilst the previous management plan was discharged for the temporary planning permission period, an updated plan is required to secure better on-site management of the boiler, which could further help mitigate neighbouring amenity issues. The recommended biomass boiler management plan is set out within condition 2.

9.2.22 The Council's public protection team have also confirmed that ad hoc site visits would be undertaken to check on the compliance with the management plan. Based on the above and in environmental terms, officers are supportive of the application, subject to planning conditions.

### **9.3 Impact on the landscape**

9.3.1. The application site is not located within the Western Wiltshire Green Belt, the Cotswolds AONB or a special landscape area.

9.3.2. The application site cannot be seen from Whaddon Lane itself due to the distance to the lane and the many hedges that line field boundaries. The site can be seen from Greenhill Gardens in Hilperton which is approximately 430m to the southwest. The views across the open countryside are open and generally unrestricted but Bekson Farm is reasonably enclosed by existing hedgerow which screen the majority of the existing agricultural barns. There is a small break in the hedgerow screen however immediately where the boiler is located. It is not known whether the hedgerow has been removed to allow for air flow or to reduce fire risk, but this gap allows for direct views of the boiler and the 4-metre-high flue/stack. It is submitted that despite the boiler and flue being visible, especially due to its blue colour, that it is not of a size, in a sensitive location or close enough to Hilperton to cause adverse harm to the landscape to warrant the refusal of the application.

9.3.3. Officers are also aware that public right of way HILP18 that runs northwest from the access road to the Marsh Farm complex of industrial and commercial uses across open countryside and up to Whaddon Lane as it continues to the Kennet and Avon Canal. HILP18 passes the application site at a distance of approximately 200m to the north and northwest. Along the public right of way there is only one viewpoint of the application site, a small gap in the hedgerow, but this only allows a brief and passing glimpse of the blue boiler container and the flue. It is also submitted that given the distance from the public right of way and the brief nature of the view it is not considered that the height of the flue or the size of the boiler causes adverse harm in which to refuse the application on landscape grounds.

### **9.4 Impact on the local transport network**

9.4.1. Whilst it has not been quantified for the purposes of this application, as part of the 19/06300/WCM application, the applicants stated that the dried woodchip is taken out in single deliveries (with 34 recorded traffic movements for the period of 1 January 2019 and 14 October 2019)

- Between 1st January to 30th June 2019 the applicants collected 23 loads of wooden pallets, just under 1 per week
- Between 1st January to 30th June 2019 the applicants brought back 27 loads of waste wood from various forestry jobs.

9.4.2. The applicants have previously stated that the boiler generates approximately 12 trips per month which is submitted to be of a low frequency that should not cause harm to highway safety along Whaddon Lane. The applicants would also be limited in how many trips would be possible given the maximum 2 container loads that they can dry each week.

9.4.3. The applicants also previously stated as part of the 19/06300/WCM application, that the journeys are akin to that used in the former piggery use, but details of that operation are unknown and therefore are not directly comparable. However, it is reasonable to consider that an agricultural use could easily generate the same number of journeys as described.

9.4.4. It is also submitted that it is not necessary or reasonable to require this application to solve an existing highway issue down Whaddon Lane by requiring a passing place to be introduced. This would also require the landowner consent and a suitable location to be identified. Passing places should be a matter for the Parish Council to pursue in either a Parish Plan or via the Hilperton Neighbourhood Plan process.

## **9.5 Biodiversity**

9.5.1. The boiler is located on an area of hardstanding that Council aerial photographs demonstrate has been there since 2001 and would have been used in conjunction with the adjacent piggeries barn. Therefore, the introduction of the boiler would have been unlikely to cause harm to existing protected species or result in a net loss of biodiversity.

9.5.2. There is potential for the smoke to cause harm to bats, or birds who could use either barn for roosts or nests; but the piggeries barn is quite large, and the northern section of the barn would be unlikely to receive constant direct smoke as the has been evidenced to blow in all directions. Additionally, bats would be active in dusk/night time hours, which would generally be the same times when the boiler should not be in operation after 6pm as per the hours of operation condition. Therefore, it is considered that the risk to protected species is acceptable and that surveys etc are not required.

## **10. Conclusion**

Whilst the exact length of time the boiler has been on site in unknown (stated to be 2016) Officers can confirm that no Environmental Health evidenced complaint has been received pursuant to the allegations of prohibitive material being used in the boiler. The planning enforcement team are fully aware of the breach of planning control following the expiration of the temporary planning permission and await the outcome of this application. The applicant is willing to adhere to the restricted hours of operation and the number of container loads. Condition 2, as recommended, would ensure a more robust management plan for the use of the boiler and how it operates. Whilst it is accepted that the boiler will result in smoke pollution, the Council's public protection/ environmental health team have concluded that with the appropriate planning conditions in place and adherence to the aforementioned restrictions, the application can be supported.

## **11. Recommendation – Approve subject to conditions**

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Planning Conditions:

1. The development hereby approved is subject to the following plans and associated documents:

Site Location Plan, Block Plan, Biomass Boiler and Container details (photos), Air Quality Statement (dated December 2019), Cover letter (supporting statement), Biomass details, Biofuel Report, Biomass Manufacturer details and Biomass Boiler Service Record – all received 19 November 2021.

REASON: For the avoidance of doubt and in the interests of proper planning.

2. Within 28 days of the date of the permission, an updated Boiler Management Plan shall be submitted to and approved in writing by the Local Planning Authority.



The plan shall fully set out what the standard the applicants will achieve with regard to controlling the smoke & odour emissions from the combustion plant, how they are going to operate on site to minimise emissions of smoke & odour in order to achieve this standard and what they will do in the event there is an adverse smoke/ odour incident that may result in an adverse impact on the amenity of neighbouring residences.

The Plan shall include details on how the pallets shall be kept dry whilst in storage at all times.

The Plan shall include reference the best practices as set out within Section A5 of the Air Quality Assessment and the guidance contained within Process Guidance Note PG1/12(13) Statutory Guidance for Combustion of Waste Wood

Thereafter, the operation of the biomass boiler shall strictly adhere to the approved details for the lifetime of the development.

REASON: In the interests of safeguarding the environment and residential amenities from potentially harmful levels of smoke, fumes and general disturbance.

3. The use and operation of the boiler hereby permitted shall only take place between the hours of 06:00 and 18:00 from Mondays to Fridays. The use and operation of the boiler shall not take place at any time on Saturdays, Sundays and Bank or Public Holidays.

REASON: In the interests of safeguarding the environment and residential amenities from potentially harmful levels of smoke, fumes and general disturbance.

4. No more than two container loads of woodchip for biomass shall be dried on site in a week.

REASON: In the interests of residential amenity and in the interests of highway safety.

#### INFORMATIVES TO APPLICANT:

1. The applicant is respectfully advised to consider finding a storage solution on the site, to be able to store all the wooden pallets and logs for combustion in the boiler, under cover, as the moisture content of the pallets affects the rate that they burn and how much smoke is produced. This would likely require securing planning permission for a further structure on site.

2. The applicant is advised to consider potentially erecting a built cover over the container drying area (subject to obtaining any requisite subsequent planning approval and compliance with health and safety legislation and the operation of the boiler itself) to help keep the woodchip dry during the drying process. It has not been disclosed in either application what happens during times of inclement weather, and if wet the process is assumed to take longer, thereby extending the use of the boiler and the potential drying time up to and potentially beyond the required 30 hours for each container load. This would also likely require first securing planning permission.

3. The applicant is respectfully advised that compliance with the biomass boiler management plan, and planning conditions would not preclude the Council's Environmental Health Department from taking formal action should a statutory nuisance be proven following receipt of a complaint.