

06/01051/FUL & ERECTION OF WIND TURBINES AT WRYDECROFT & NUTSGROVE
07/01411/FUL: FARMS, THORNEY, PETERBOROUGH
VALID: 25 JULY 2006 AND 8 OCTOBER 2007
APPLICANT: WPR WIND LTD & RENEWABLE ENERGY SYSTEMS UK LTD
REFERRED BY: HEAD OF PLANNING SERVICES
REASON: TO ENSURE THAT MEMBERS ARE FULLY INFORMED

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1 BACKGROUND

Members will recall that these applications were considered at the Planning and Environmental Protection Committee on 21st October 2008, when Members resolved to refuse permission to 07/01411/FUL and that they would have refused permission to 06/01051/FUL for the following reasons:

R1 The proposed wind turbine development would unacceptably affect Ministry of Defence radar systems to the degree that it would not, if the turbines were constructed, be possible to provide a safe and expeditious air traffic service to military and non-military aircraft in the area. The Ministry of Defence has advised that the applicant has failed to prove that the proposal would have no adverse impact on aviation interests as required in accordance with paragraph 25 of Planning Policy Statement 22 (PPS 22) – Renewable Energy which states;

'It is the responsibility of developers to address any potential impacts, taking account of Civil Aviation Authority, Ministry of Defence and Department for Transport guidance in relation to radar and aviation, and the legislative requirements on separation distances, before planning applications are submitted. Local Planning Authorities should satisfy themselves that such issues have been addressed before considering planning applications'.

and paragraph 96 of the Companion Guide to PPS 22 which states:

Because topography, intervening buildings and even tree cover can mitigate the effect of wind turbines on radar, it does not necessarily follow that the presence of a wind turbine in a safeguarding zone will have a negative effect. However, if an objection is raised by either a civil aviation or Defence Estates consultee, the onus is on the applicant to prove that the proposal will have no adverse impact on aviation interests.

Thus the proposal is contrary to the provisions of Planning Policy Statement 22.

R2 The proposed development, when considered alongside other existing and potential wind turbine sites would have, cumulatively, a harmful impact upon the character and appearance of the Fen landscape in conflict with policy LNE1 of the Peterborough Local Plan (First Replacement) which states:-

Development in the countryside will be restricted to that which is demonstrably essential to the effective operation of local agriculture, horticulture, forestry, outdoor recreation or public utility services.

R3 A request has been made by the Local Planning Authority to secure funding from the applicant to promote renewable energy measures within the local communities through information literature and education and community based renewable energy related projects. However, no S106 Obligations have been completed and the proposal is therefore considered to be contrary to policy IMP1 of the Peterborough Local Plan (First Replacement) which states:-

Planning permission will not be granted for any development unless provision is secured for all additional infrastructure, services, community facilities and environmental protection measures, which are necessary as a direct consequence of development and fairly and reasonably related to the proposal in scale and in kind.

The provision of such requirements shall be secured as part of development proposals or through the use of conditions attached to planning permissions, or sought through planning obligations.

Where provision on an application site is not appropriate or feasible, provision elsewhere, or a contribution towards this provision, will be sought where necessary.

Where a planning application is for part of a larger area planned for development, a pro rata provision of any necessary facilities, services or infrastructure, or a contribution towards them, will be sought.

Appeals have been lodged in respect of both applications and a Public Inquiry requested. In order to prepare the Council's case officers have secured the services of an expert landscape consultant experienced in fighting wind turbine appeals on landscape grounds. This report has been prepared on the basis of the Consultants initial advice, a copy of which is attached.

The **Head of Planning Services** recommends that Members resolve to offer no evidence at the Public Inquiry in respect of Reason 2 of the above decisions.

2 POLICY

There is a great deal of policy advice relating to renewable energy developments, an extensive selection of which is quoted in the application for two turbines at French farm, reported elsewhere on this agenda. The most important policy advice is contained in PPS 22 which sets out 8 key principles as follows:

Planning Policy Statement 22 (PPS22) - Planning for Renewable Energy

- (i) Renewable energy developments should be capable of being accommodated throughout England in locations where the technology is viable and environmental, economic, and social impacts can be addressed satisfactorily.
- (ii) Regional spatial strategies and local development documents should contain policies designed to promote and encourage, rather than restrict, the development of renewable energy resources. Regional planning bodies and local planning authorities should recognise the full range of renewable energy sources, their differing characteristics, locational requirements and the potential for exploiting them subject to appropriate environmental safeguards.
- (iii) At the local level, planning authorities should set out the criteria that will be applied in assessing applications for planning permission for renewable energy projects. Planning policies that rule out or place constraints on the development of all, or specific types of, renewable energy technologies should not be included in regional spatial strategies or local development documents without sufficient reasoned justification. The Government may intervene in the plan making process where it considers that the constraints being proposed by local authorities are too great or have been poorly justified.

- (iv) The wider environmental and economic benefits of all proposals for renewable energy projects, whatever their scale, are material considerations that should be given significant weight in determining whether proposals should be granted planning permission. This directs Planning Authorities to give a greater emphasis to the overall benefits of renewable energy than was previously given in PPS22.
- (v) Regional planning bodies and local planning authorities should not make assumptions about the technical and commercial feasibility of renewable energy projects (e.g. identifying generalised locations for development based on mean wind speeds). Technological change can mean that sites currently excluded as locations for particular types of renewable energy development may in future be suitable.
- (vi) Small-scale projects can provide a limited but valuable contribution to overall outputs of renewable energy and to meeting energy needs both locally and nationally. Planning authorities should not therefore reject planning applications simply because the level of output is small.
- (vii) Local planning authorities, regional stakeholders and Local Strategic Partnerships should foster community involvement in renewable energy projects and seek to promote knowledge of and greater acceptance by the public of prospective renewable energy developments that are appropriately located. Developers of renewable energy projects should engage in active consultation and discussion with local communities at an early stage in the planning process, and before any planning application is formally submitted.
- (viii) Development proposals should demonstrate any environmental, economic and social benefits as well as how any environmental and social impacts have been minimised through careful consideration of location, scale, design and other measures.

Regional renewable energy targets should be expressed as a minimum amount of installed capacity. The fact that a target has been reached should not be used in itself as a reason for refusing planning permission for further renewable energy projects. Nor should it be argued that the potential to generate substantial amounts of energy from offshore projects is reason to justify lower targets for onshore projects. The PPS also states that fixed targets for renewable development proposal should not be used.

Of all renewable technologies, wind turbines are likely to have the greatest visual and landscape effects. However, in assessing planning applications, local authorities should recognise that the impact of turbines on the landscape will vary according to the size and number of turbines and the type of landscape involved, and that these impacts may be temporary if conditions are attached to planning permissions which require the future decommissioning of turbines.

Renewable technologies may generate small increases in noise levels (whether from machinery such as aerodynamic noise from wind turbines, or from associated sources - for example, traffic). Local planning authorities should ensure that renewable energy developments have been located and designed in such a way to minimise increases in ambient noise levels. Plans may include criteria that set out the minimum separation distances between different types of renewable energy projects and existing developments. The 1997 report by ETSU for the Department of Trade and Industry should be used to assess and rate noise from wind energy development.

3 ISSUES

Reason 1

The MOD are still in negotiation with the appellants and on the basis that they do not reach agreement before any public inquiry they will present their own evidence.

Reason 2

The impact of wind turbine schemes on the landscape, both individually and cumulatively, is a material planning consideration and thus is a legitimate reason for refusal.

In order to succeed at appeal the Local Planning Authority must be able to show that their concerns for the landscape are justified and that they outweigh what is effectively a presumption in favour of renewable energy proposals in PPS22.

In order to ensure that the Council's case was presented in the best possible way, Officers have employed the services of a Consultant with considerable experience in fighting wind turbine appeals on the basis of landscape impact. The Consultant has given the advice in the attached letter.

He would be willing to proceed to represent the Council's case at the Public Inquiry, however, his advice is clearly that the case is weak and is unlikely to succeed.

Where an Inquiry is held, the appellant can claim that the Council acted unreasonably in refusing the application and claim the costs of preparing and presenting evidence against the Council. This can come to many thousands of pounds, in addition to the costs of preparing and presenting the Council's own case.

In view of our Consultants advice, Officers consider that it is highly likely that the Inspector would regard Reason 2 of both applications as unreasonable and as such it would exposing the Council to a very high risk of both losing that element of the appeal and having costs awarded against the Council if we proceed to defend those Reasons.

If the Council makes this decision at this stage, there may be no costs incurred beyond our own Consultant.

Reason 3

Officers are confident that agreement can be reached with the appellants regarding the level of S106 contribution to mitigate the impact of the development on the landscape through contributions towards Renewable Energy, wildlife and archaeological projects. Officer would continue to defend this reason for refusal.

4 CONCLUSIONS

It is not in the public interest to continue to defend Reason 2 of both 06/01051/FUL and 07/01411/FUL.

5 RECOMMENDATION

The Head of Planning Services recommends that Members agree to OFFER NO EVIDENCE in respect of Reason 2 of both 06/01051/FUL and 07/01411/FUL at the forthcoming Public Inquiry. The MOD will continue to defend their reason for refusal (Reason 1) and Officers will continue to defend Reason 3.

Copy to Councillors Dobbs and Sanders