



Planning Application Appeal

Site at Flixborough Grange

Planning Inspectorate Reference Number:
APP/Y2003/A/11/2156713/NWF

Statement to the Informal Hearing

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Introduction

A Written Representation Statement to planning appeal APP/Y2003/A/11/2156713/NWF (WRS) was made by BATs on the 15th September 2011 together with comments to Appellants and the Authorities statements Written Representations on the 13th October 2011 (Included here as Appendix 1).

This statement to the Informal Hearing summarises these issues and highlights those areas where new information has come to light since the first submittals and is arranged around what are presumed will be the main subjects of the Hearing (Landscape, Noise Planning Policy and Conditions).

BATs would also request that in addition to the residential site visits the Inspector considers the impact this application will have on the cumulative and sequential cumulative impacts described here that are of particular concern to residents of Burton upon Stather with views over the Trent Levels and to residents living on the Trent Levels, between the currently permitted windfarms, for whom this proposal represents a significant impact on their enjoyment of the contrasting, tranquil and beautiful landscapes.

BATs have commented on those conditions passed between the Authority and Appellant at an earlier stage within their Written Submission but have not had sight of any further correspondence with respect to conditions.

Noise

BATs position is that with this proposed wind farm in such close proximity (660m with currently suggested micro siting) to residential properties in Burton upon Stather and with the prevailing wind carrying this noise directly to the village, correct noise assessment is vital to assure no unacceptable loss of residential amenity.

Baseline noise data is used to calculate the noise limit levels which are then extrapolated to noise sensitive receptors and used in setting the noise conditions.

The higher the background noise levels the higher the noise limit levels and the greater the level of noise nuisance before affected residents have the opportunity to seek remediation of any problem that may occur.

The assessment of the most appropriate noise limit levels is essential to avoid noise complaints and putting residents through significant stress and obligations if inappropriate levels are utilised, for example:

Difficulties obtaining remedy to noise nuisance complaints

At Askam in Furness

- ref Salford report URN 07/1235

The 7 relatively small turbines resulted in, over the period 2001 to 2008, a total of 152 noise complaints.

Note the extremely slow progress and time (7 years) between first notification of a problem and the end of the study period by which time most complaints had subsided (though it is not known, if that was because the problem had been truly solved or because residents had become so stressed and exhausted by the whole process).

Additionally please note that one consultant had considered the topography to be a contributing factor, in this case (Grange) the Appellant has confirmed that no topographical effects have been considered in this assessment.

At Lissett Airfield near Bridlington and At Knabs Ridge near Harrogate

Ref - the "Dalesman", August 2011, "Living with a Windfarm"

The researcher describes:

However, keeping those records was a job in itself. John showed them to me: pages and pages of dates, times, and descriptions. He is aware that keeping such records brings its own problems. He said, "I can see that it is evidence, but I try not to listen out for it. I only record it if impinges on us – I don't want to get into obsessive behaviour."

It's also a lot of work: a complaint could easily founder if the complainant hadn't the time, skills, or inclination for weeks and weeks of meticulous documentation.

And other interviewees said,

"We've seen so much hassle that we've given up shouting. It's like banging your head against a brick wall."

"It's noise as much as anything. When they're operating, you get a whuff-whuff-whuff. In certain wind directions, it's horrendous. Most prevailing wind is from the west, so we get most of it. The next neighbours are about a mile away, the sound's dropping off that far."

"We've complained, but it's like banging your head against a brick wall. This last year, we've given up. For the last 8 to 9 months, we've not bothered complaining."

At Deeping St Nicholas

Ref - Hansard "The Economics of Renewable Energy - Economic Affairs Committee"

A windfarm was built within 930m (upwind) of the home of Jane Davis and her husband in 2006. They experienced noise issues within 3 days of the wind farm starting operation with noise and what they described as amplitude modulation causing them to vacate the house by May 2007. They successfully took their case to a council tax valuation tribunal, had the local authority EHO investigate the noise and agree there was a problem but proved unable to resolve the issue (likewise the Local Government Ombudsman). In trying to resolve the problems and even have the developers/operators acknowledge that there is a problem the family have suffered tremendous stress and health problems.

They then sued for compensation through the high court and at the last moment an out of court settlement was made with the developers and operators. Like similar instances with respect the Grange development (re the Glathorne and Ashley families) the terms of this settlement remain confidential but it would be implausible to believe there are no outstanding noise issues merely mitigated by a cash settlement.

Summary with respect the Appellants Noise Assessment

It is BATs assessment that the Noise assessment conducted by the appellant is flawed in a number of vital areas particularly with respect to the monitoring and calculation of baseline noise data. Despite requesting full and transparent disclosure of all noise data and calculations from the first application and at each stage subsequently, none has been forthcoming apart from that directed by the inspector at the previous Public Inquiry (which was disclosed giving just 4 days for third party assessment).

BATs remain of the opinion that the appellants noise assessment has not been conducted in accordance with ETSU nor best industry practice outlined in the Hayes Mackenzie Partnership (HMP) report to DECC dated April 2011. Whilst it is stated that until new guidelines are published the existing guidance should be used, it is clear that even within the existing guidance, there is more than one method of producing results and that "Best Industry Practice" should not be dismissed.

The following highlights are précised from the BATs WRS with reference as appropriate to page number ()

Choice of monitoring locations

Pages (13 & 16)

Unlike the majority of residential properties monitoring location M4 is within dense woodland

The noise monitor is subjected and in very close proximity, to near field noise sources (vegetation leaves etc.)

Average noise levels are elevated by the fact that noise from surrounding near field noise sources (vegetation leaves etc.) are always carried to the monitor irrespective of the wind direction.

This Monitoring location is not representative of the majority of residential properties and does not follow ETSU or HMP "Best Practice" Guidance.

Processing of 'dubious data'

Pages (16 & 17)

The Appellant has been opaque in his treatment of data required by ETSU to be removed as dubious data, stating that all such data has been removed when evidentially there are no

missing points. For instance data correlating to heavy rainfall which is required to be removed by ETSU and the HMP has not been removed from the data set.

Accuracy of raw data

Page (18)

Data used within the Appellants calculations and charted noise limits is not substantiated by the data presented to BATs and the Authority at the previous Public Inquiry graphed which is 2 and 3 day less at 2 monitoring locations. The Appellants assertion that the shortfall was a transposition error neither remedies the situation nor instils confidence in their findings.

Amplitude modulation

Pages (20 & 21)

BATs position is that unacceptable blade swish and thumping noise effects are seen at a significant number of wind farms. It is not acceptable to conclude that amplitude modulation cannot be predicted and hence that protection by condition is not warranted.

Unfortunately official actions suggest transparency and research into this subject is not forthcoming and residents are being left unprotected by the lack of appropriate conditions:

The DTI commissioned a report into "The Measurement of Low Frequency Noise at Three UK Wind Farms" in 2006

And then commissioned the University of Salford and HMP to investigate the issue of Aerodynamic Modulation (AM) noise from wind turbines.

The University of Salford, report URN 07/1235 (July 2007) surveyed 133 wind farms and reported that 27 of these had resulted in noise complaints being lodged with the appropriate local authority.

BERR the successor to the DTI subsequently issued a statement offering interpretations of the significance of the findings, with the implication that AM was a minor problem.

However, the University of Salford's report did not reveal any specific details and BERR's interpretation of the study could not be validated.

A Freedom of Information request had to be made in 2007 which finally resulted in the information being released at appeal in 2009.

A summary of research¹ provides a basis for further work and until these effects are understood and reliably predicted, we believe the imposition of conditions to protect residents is entirely reasonable.

BATs believe the site is prone to high levels of wind shear and thus susceptible the 'thumping' effect noted in Van den Bergs research.

The planning Inspector at the previous Public Inquiry agreed that there is sufficient possibility of amplitude modulation to warrant the application of a condition to mitigate its impact.

In addition the three Lord Justices at the Court of Appeal of the Den Brook decision (26th May 2011) concluded that setting of conditions to protect against noise due to Amplitude Modulation was appropriate.

¹ Amplitude Modulation of Wind Turbine Noise. -A Review of the Evidence - Dick Bowdler

Worst case scenario

Pages (18 & 19)

The Appellants repeatedly claim that their noise assessment represents a worst case scenario however investigation and analysis does not support these statements.

It is not clarified that the particular turbine quoted will be utilised and hence there is no contractual obligation on the vendors behalf to warrant this information

It is presumed that any warranting of information will have a limited validity (life) after which time the vendor would not be liable

The background noise monitoring in so far as it has been conducted derives an 'averaged' noise level, in this instance more than half of the data is quieter and approximately 10% 5dB or more, quieter than the averaged level.

The wind shear values utilised in the correlation of wind speed and noise have been averaged over the course of a year. In this instances it is likely half of the values will be lower than this average resulting in an underestimate of the sound emission from the turbines.

Monitoring period

Pages (13 & 14)

ETSU required baseline 'representative' monitoring data of at least one week, whilst the premature failure of monitoring equipment (batteries) has resulted in monitoring periods at M1 and M3 in excess of this period it is short of the 21 days average seen by the HMP and without data representative of wind speeds and direction required by ETSU, at all locations.

Revised Health Guidance

Pages (14 & 15)

Since the publication of ETSU in 1997 World Health Organisation guidance has changed yet the ETSU limits applicable to night time limits has remained. In their review of the application of ETSU HMP have questioned the validity of this situation on the basis of sleep disturbance and consequent health effects.

Landscape

Sequential cumulative impact

The developer carried out a cumulative impact assessment which looked at 5 scenarios dependent upon other wind farms gaining approval within a 15 kilometre study area.

Scenario 5 allowed for all of the proposed developments to be approved and then added Grange to the assessment to provide a 'worst case'. Since the publication of the ES all of the proposed windfarm developments within the 15 kilometre study area have been approved with the exception of Grange (subject of this appeal) Winterton (currently in Planning) and Saxby (currently at the planning re-submission stage). Additionally, not included in the assessment but within the study area, are further applications for a single turbine at Garthorpe (at Appeal) and a permitted turbine at Alf Kitching Ltd. This makes the 'worst case' scenario 5 now slightly understated (ref Appendix 2).

The developer within the ES concludes at point 5.8.5 the following:

Visual amenity - significant combined cumulative effects as a result of simultaneous and successive views of the five permitted and proposed Grange wind turbines from some residential properties on the northwestern edge of Scunthorpe, in the villages of Flixborough, Burton upon Stather, Burton Stather, Amcotts, Luddington, Garthorpe, Adlingfleet and Eastoft and from some farmsteads and individual properties in the vicinity of the wind farms and these settlements.

The developer through his own conclusions on cumulative effect has stated that there would be 'significant cumulative effects to landscape character and views'. This situation has now been realised with the approval of the other proposed wind farm sites within the study area making the assessments higher risk.

The developer makes reference to but does not fully explore the '**sequential cumulative impact**' that the addition of the proposed Grange Windfarm would have on major routes through the area for example along the M180 or locally designated cycle routes.

The companion guide, PPS22, states the following in paragraph 5.23:

"Cumulative effects may arise where two or more of the same type of renewable energy development are visible from the same point, or are visible shortly after each other along the same journey. Hence, it should not be assumed that, just because no other sites are visible from the proposed development site, the proposal will not create any cumulative effects"

The cumulative impact statement is in no doubt from either side that there will be a significant cumulative effect due to the addition of the proposed Grange windfarm but this has been dismissed by the appellant as being just another windfarm in a windfarm landscape. This admission gives weight to the 'sequential impact' the proposed Grange development would cause.

The companion guide, PPS22, also states the following in paragraph 5.24:

"sequential effects on visibility occur when an observer moves through a landscape and sees two or more schemes. Common routes through a landscape (e.g. major roads; long distance paths or cycle routes) should be identified, as 'journey scenarios' appropriate for assessment"

Within the appellants ES when considering the sequential impact they make reference to a 'National Byway Cycle Route' and note it as being '**significant**' solely between the proposed Grange and existing Bagmoor sites. The appellant also references unspecified 'linear routes' but adds no further details or references to any specific routes.

This could have been an oversight by the appellant due to the age of the application or a case that they have only considered their two developments in isolation but due to all the other proposed windfarms mentioned within their ES, either approved or subject to appeal, a thorough sequential impact assessment should have been carried out for due consideration.

Within this submission I'd like to test the sequential impact using four routes based on all of the existing approved windfarms and proposed Grange windfarm within the 15 kilometre study area. This is a prudent approach by omitting the proposed Winterton and Saxby windfarms and Garthorpe turbine that are subject to further due planning process. If they were to be granted approval the sequential impact would increase further in particular along the '**Nev Cole way**', '**Mysteries of the marshes**' and '**in search of the lost don**' cycle routes.

M180 journey from Doncaster (M18/M180 junction 5/1) to Normanby Hall

- As described by the Authority, Normanby Hall Country Park is the jewel in North Lincolnshire's crown. Award winning gardens, a stunning Regency mansion steeped in history, exceptional wildlife, exciting events or just a relaxing day out, it has something for everyone.
- Normanby Hall was home to the Sheffield family, former Dukes of Buckingham and original owners of Buckingham Palace.
- The journey is approx. 19 miles predominantly along a linear three lane motorway running West to East.
- To the North and North East lies Goole, Thorne, Luddington, Garthorpe, Keadby, Amcotts, Burton Upon Stather and Scunthorpe.
- As can be seen from the attached 15 kilometre study area map as the receptor travels East towards Scunthorpe there are 7 windfarms in view. They are:
 - Tween Bridge (22 turbines)
 - Goole Fields (16 turbines)
 - Sixpenny Woods (10 turbines)
 - Twin River (14 turbines)
 - Keadby (34 turbines)
 - Grange (7 turbines)
 - Bagmoor (8 turbines)

- Looking in a 'plan view' of the sites there are gaps in between showing a potential break in the view; however due to the nature of the cumulative impact or view whilst travelling the receptor will not see the breaks due to the overlap of the sites caused by the angle of view and the receptor will instead see a continuous line of turbines on a linear plain when viewed from ground level.
- It wont be possible for the receptor to distinguish between '**near and far**' sites due to the linear nature of the windfarms and the sense of scale will be lost by the continuous layering and blending effects as the journey passes through the landscape.
- Although the receptors view of the numbers of turbines will reduce as they travel East along the M180 there will still appear to be a continuous line of turbines.
- As the receptor leaves the M180 and heads North along the M181 the view changes with turbines now being visible to the West at Keadby, North at Grange and North West at Twin Rivers and Sixpenny Wood.
- The receptor then heads along the A1077 where the turbines are still visible to the West and North West with Bagmoor to the North East being partially obscured by an inclining road resulting in just the tips of the Bagmoor site being visible.
- The receptor then heads along Normanby Road (B1430) where the Bagmoor windfarm is directly ahead or to the North with Winterton in the background and the turbines at Saxby on top of the ridge in the distance to the North East.
- The resulting journey from Doncaster to Normanby Hall results in a continuous windfarm landscape without breaks and without distinction between the Trent Levels and Lincoln Edge Landscape Character Areas.
- Without the Grange turbines the distinction between the Trent Levels and Lincoln Edge Landscape Character Areas would be defined.

Walking/riding from Alkborough to Burton Upon Stather

- The journey detailed below is the final part the designated long distance footpath known as the '**Nev Cole Way**'. This walk is a linear 57 miles and stretches from Nettleton and along the South bank of the River Humber to Burton Upon Stather where for the final 3 miles it includes the beautiful scarp slope of the Jurassic Ridge overlooking the River Trent.
- The journey is very popular for horse riders, cyclists and walkers. All of which enjoy the current views across the Trent.
- As the receptor walks, rides or cycles along the route, 4 windfarms would be fully visible at distance when looking ahead and to the West and South West. These are Twin Rivers, Goole Fields, Tween Bridge and Keadby with Bagmoor to the South. Winterton would also be clearly visible in the near field to the East. The 7th windfarm (proposed Grange) would be partially visible from the elevated position of the Cliff
- As the receptor looks behind 1 windfarm would be visible to the North, North West. This is Sixpenny Wood.
- As the receptor approaches Burton the proposed Grange windfarm comes in to full, view in the foreground from the South/South West resulting in 6 windfarms now being in full view. This would have an additional impact of creating a link to the Keadby windfarm, and on to the windfarms on the Trent Levels thus exacerbating its impact.
- As with the previous study the windfarms give the appearance of a continuous or single site due to the continuous layering view and hence do not provide a break in the landscape.

Cycle ride Eastoft, Luddington to Mere Dyke (route 11)

- This is a locally designated cycle route (route 11) known as '**mysteries of the marshes**'.
- The journey is approx. 2 ½ miles along the cycle route.
- The journey takes the receptors East from Eastoft along the B1392 heading towards the proposed Grange turbines directly ahead. There would also be a part view of the Bagmoor turbines to the right of Grange and Keadby to the South creating a wider cumulative view of turbines.

- As the receptor travels further along the B1392 the road sweeps South East maintaining views of the Grange windfarm ahead, a partial view of Bagmoor and more direct near field views of Keadby.
- As the receptor approaches Luddington, Keadby disappears from view and Grange is still visible to the East with Twin Rivers now visible to the North West.
- At Luddington the receptor will head due East and is faced in the near distance, by the full view of Grange once more.
- The route then turns South West to return to Eastoft with more near field views of Keadby.
- This cycle route is popular for local residents and tourists who come to enjoy the scenery around and along the River Trent with particularly appealing views of Burton wood and the Lincoln Edge to the East. As a sequential impact this journey would now not have any breaks from views of windfarms and they would have the appearance of blending in to one single view. The views would dominate the landscape and the cycle route would be surrounded by windfarm sites.

Cycle ride Mere Dyke, Garthorpe, Luddington returning to Mere Dyke (route 12)

- This is a locally designated cycle route (route 12) known as **'in search of the lost don'**.
- The journey is approx. 7 miles along the cycle route.
- The journey takes the receptors North from Mere Dyke along the West Bank of the River Trent. From this location all 7 of the proposed Grange turbines would be in very close view to the East. Heading North Sixpenny Wood would be in full view in the distance and looking across to the West there would be Twin Rivers and Goole Fields in full view. This would cause a significant visual cumulative effect due to the layering of the three sites where there would be 40 off turbines visible.
- As the route takes the receptor West towards Garthorpe in full view would be Twin Rivers and Goole Fields, Keadby to the South, Tween Bridge to the South West, and Sixpenny Wood to the North.
- After leaving Garthorpe, the receptor will head South West where Tween Brige and Keadby are in full view, with Twin Rivers and Goole Fields to the West. The proposed Grange would be to the East.

- After leaving Luddington, the receptor will head East and be faced with the proposed Grange site in the near distance directly in front and Keadby to the South until reaching Mere Dyke.
- As with cycle route 11, this route is also popular for local residents and tourists who come to enjoy the scenery around and along the Trent valley. The cycle route would be surrounded by windfarm sites along it's circular route with no respite and contrasting views of the Trent Levels and Lincoln Edge would be subdued beneath a dominant Turbine Landscape.

At a recent appeal (APP/E2001/A/10/2130670 Land south of Hogsea Lane, Tunstall, Roos, Hull HU12 0JE) where the decision was to dismiss due to harm to the Landscape and an unacceptable cumulative impact, the inspector, Mr Andrew Pykett, stated within the decision notice the following:

Both PPS22 and local plan Policy U18 render the cumulative effects of multiple schemes a matter of critical importance. Although there would be only three turbines erected in this case, it must be assumed these would be in addition to the 15 (in three windfarms) already permitted in the same area. I have referred to the possibility established in Planning for Renewable Energy that cumulative effects may be experienced over relatively extensive areas where the multiple sites may not be visible from each other. I am led inevitably to the conclusion that in more limited areas where sites are relatively close to each other, a critical cumulative impact level may be reached more readily.

Mr Pykett further sums up within the decision notice:

In the terms of the ES there is a degree of agreement between the parties concerning the significant effects of the proposed development. Perhaps the debate about valency or the predisposition of receptors is expressed in paragraph 19 of PPS22. Under the heading of landscape and visual effects it records, amongst other matters, that development should be assessed using objective descriptive material and analysis wherever possible even though the final decision on the effects will be, to some extent, one made by professional judgement. I have concluded in this case that, although this would be insufficient to result in an overbearing or overwhelming effect on living conditions at individual properties, hamlets, villages or settlements, the cumulative effects would be sufficiently serious to constitute a harmful impact on the landscape and visual amenity of the area.

When we consider that the cumulative impact for the above appeal was deemed to be unacceptable or to outweigh the proposed benefits for 18 turbines across 4 developments and we are considering a cumulative impact of 111 turbines across 7 developments it's cumulative effect must be given significant weight in determining this appeal.

Landscape Conclusions:

Cumulative impact can have more than one effect; firstly it can have a direct effect on residential receptors who would be subjected to static views from more than one development or site, secondly it can have an effect when travelling through an area of sustained developments that do not allow for any breaks in the landscape.

Unfortunately when considering both of the cumulative effects significant harm would be created due to the number of approved and proposed developments within such a small geographical area. Not only would the 'worst case' scenario be realised (as stated within the ES) for cumulative impact on residential receptors but when considering those travelling through the area or those making use of the landscape/area for recreational activities there would be no respite from the developments and breaks highlighting the landscape would be lost. The proposed Grange development would constitute the tipping point from significant to an unacceptable impact.

The sequential impact has not been suitably considered by the appellant and as can be seen from the 15 kilometre study area, it is of significant importance and its consideration should be given significant weight in determining this appeal.

Planning Policy

The NPPF Direction of Travel – CLGC Report

Since the submission of Written Statements, publication of the report by the Communities and Local Government Committee regarding the National Planning Policy Framework on the 21st December 2011 confirms and reinforces current concerns on the definitions and wording of this draft policy.

In their conclusions and recommendations the committee have echoed the concerns of many into the current definition of what constitutes “sustainable development” within the current draft of the NPPF. There is the clear statement in para 161: **“Its definition of sustainable development is inadequate”** and that: **“The presumption in favour of sustainable development is a useful concept if it is intended to be an overarching, strategic aim, but it is not an appropriate basis for making decisions in individual cases.”**

Crucially this same paragraph states of the term: **“It is also expressed throughout the document in inconsistent ways, which together have the effect of unbalancing a stool supposed to rest on the three equal legs of economic, social and environmental considerations.”**

The recommendation is that the definition of sustainable development must give a clear indication of what constitutes sustainable development and that this must contain the following:

a) the clear and identifiable use of wording from the Brundtland report as this is well known and understood;

b) the restating of the five guiding principles from the 2005 sustainable development strategy; and

c) an explicit statement of the need to address and to seek to achieve all of the

aspects of sustainable development, and not to start by assuming that one aspect can be traded off against another. (Paragraph 66)

The committee also considers that some of the terminology used in the NPPF is often unhelpfully vague and as such needs tighter definitions. The crucial ones they define in this instance are 'significant weight'; 'great weight'; 'substantial weight'; 'considerable weight' all of which the appellant appears to think applies to the unsubstantiated benefits of their proposed development.

These points, among others in the report, show there is more work to do before any finalized NPPF is published and there is considerable doubt as to whether any final published NPPF will support the proposed development in its current form.

In para 3.3.6 of David Stewart's previously submitted appeal statement he states:

As far as the current appeal is concerned, renewable energy is a type of development that is clearly highly sustainable and under the advice in para 14 the draft NPPF would support a consent under the presumption in favour of sustainable development since the adverse impacts of allowing the development do not significantly and demonstrably outweigh the benefits.

As we now see the definition of sustainable development needs clarification and the definition of the "weight" given to the impacts and benefits needs more definition this statement now loses much of its substance.

He further quotes in para 3.3.5:

The clear message is that the default answer on planning applications should be "yes" unless it would compromise the key sustainable development principles set out in the framework, and critically the system should encourage rather than restrict the development of renewable energy.

The committee report states in para 13 of their conclusion and recommendations:

The sentence “decision-takers at every level should assume that the default answer to development proposals is ‘yes’, except where this would compromise the key sustainable development principles set out in this Framework” should be removed from the NPPF.

This again weakens Mr Stewart's main argument into the consideration the inspector is asked to give to the direction of travel of the draft.

There is clearly more consideration and rewording to be given to the current draft of the NPPF and as such we ask that it is given no material weight in this appeal.

Conclusions

Unfortunately we have noted that the North Lincolnshire Authority has in a number of instances and for presumably economic reasons, been unable to commit the necessary resources to fully defend its Elected Representatives decision to refuse planning permission for this application.

In particular it should be noted that the authorities Environmental Health Officer (EHO) responsible for assessing the noise assessment, has on a number of occasions appeared unable to grasp many of the issues being raised and frequently turned to the applicant for advice.

This Statement to the Informal Hearing together with our previous Written Statement, fully **support North Lincolnshire Councils decision by its Elected members to refuse Planning application WF/2011/1242** on the grounds of:-

1. The proposed development would introduce very substantial industrial structures into an area of significant natural beauty. The site is largely unspoilt and is open farmland on the eastern side of the area characterised as the Humberhead Levels, essentially flat and open arable land. The site is immediately adjacent to the 'Cliff' a natural geological feature of simple linearity which is especially pronounced at Burton upon Stather where the steep scarp slope, covered by ancient woodland, meets the simple form of the Trent floodplain. The Cliff is one of the highest and most prominent points in North Lincolnshire. In this area vertical structures of the size and scale proposed would be particularly harmful to the visual amenity of the landscape. The proposals are therefore contrary to policy LC7 (Landscape Protection) of the North Lincolnshire Local Plan.

3. The applicant has not demonstrated that the proposed wind farm would not lead to unacceptable noise disturbance to nearby residents, contrary to policies DS11 and DS21 of the North Lincolnshire Local Plan and to SPG13, and the Council considers there is potential for noise to impact upon the residential amenity of the residents of Burton upon Stather and other nearby settlements.

Appendix 1- Comments to the Appellants Statements

APP/Y2003/A/11/2156713/NWF



Planning Application Appeal

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Final Comments to the Appellants Appeal

Statements

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Statement of Ian F Bennett – Noise

Ref paras 1.5 and 2.1 to 2.4 – concerning the previous Appeal decision notice.

Please refer to our statement page 19.

It is difficult to understand how one can refer to previous decisions, or come to such conclusions whilst acknowledging, that data given to North Lincs Council and the public inquiry to permit clarification of appropriate noise levels, was incomplete and has not at any stage been made complete.

The Appellant in response to a query from North Lincs Council stated “...that the shortfall in data was due to a minor transposition error”

Ref paras 2.5, 2.6 & 2.7 – concerning reasons for refusal

More than 100 members of the public attended the meeting and heard the planning committee, agreeing in large part with many of the objections raised by the 5 speakers objecting to the development.

Unfortunately the meeting minutes did not correctly record the events and we were unable ourselves, to subsequently have the minutes amended.

Whilst it is true (for expediency) landscape was given as a reason for refusal at the meeting of the 9th Feb, the committee took advice from their legal officer at the time who confirmed that they could consider and add further reasons for refusal at a later stage. Rather than produce a rushed decision notice the planning committee decided to delay formalising the reasons for refusal at that meeting.

Ref para 3.3 & 5.6 – concerning IAC bulletin 34

Please refer to our statement page 13.

It was confirmed in the Hayes Mackenzie report prepared for DECC and issued April (paras 7.4 & 7.5) that:- where wind shear was addressed, it mostly followed the principles described in the Institute of Acoustics Bulletin Article but since this has no official status, the recommendations it makes should be subject to further review.

Ref para 5.9 – concerning erroneous data

Please refer to our statement page 17 & 18.

Whilst the Hayes Mackenzie report suggests that the approach of not measuring rainfall was not unusual it should also be noted that (ref our statement page 18) that Hayes Mackenzie consider rainfall should be measured and corresponding periods removed from the data set used to derive noise limits.

Ref paras 5.14 and 6.7 to 6.18 – concerning AM

Please refer to our statement page 21.

In paragraph 15 of the previous appeal decision document the inspector confirms that a condition controlling AM satisfies all the tests set out in Circular 11/95 'The Use of Conditions in Planning Permissions'.

It is also stated that the possibility that AM would occur cannot be ruled out and the conditions therefore meet the test of necessity even if they only provide comfort for local residents. It is, after all, they who would suffer disturbance from AM if it were to occur.

Furthermore evidence heard at the high court in respect of Appeal ref APP/Q1153/A/06/2017162 confirmed that the imposition of conditions to control AM and noise nuisance were applicable and valid.

Statement of David Ian Stewart

Ref para 2.1.3 – concerning the Renewable Energy Strategy.

Please refer to our statement pages 28-29.

It should be noted that the Renewable Energy Roadmap chapter 3 published in July 2011 (ie. after the Renewable Energy Strategy) indicates that onshore wind operating and under or awaiting construction, will contribute 9GW of capacity. In addition it is estimated that at historic consent rates, the existing planning pipeline could deliver 8.9GW of additional capacity.

It is clear therefore that the planning system is not the significant block inferred, to achievement of the 2020 targets quoted within the Renewable Energy Strategy.

Ref para 3.3.2 & 3.3.3 – concerning direction of travel advice.

Please refer to our statement pages 30-32.

It is clear that North Lincolnshire Council have policies (ie. Development Standard 21 – Renewable Energy) that provide the mechanism for performing a balancing exercise of the benefits and detrimental effects.

This local policy is not absent, silent, indeterminate or out of date and it is therefore inappropriate to suggest a change in direction of travel based on draft National Planning Policy Framework documents.

Ref para 4.1.1 – concerning the regional spatial strategy

The regional special strategy with respect to renewable energy (ENV5) was published in 2008 and is now somewhat dated. In this instance the direction of travel could be inferred from the National Planning Policy Framework documents.

However in order to add some clarity to public and press concerns with respect the governments proposed planning changes, the government through the Department for Communities and Local Government have issued the National Planning Policy Framework – Myth Buster. (Sept 2011).

This aims to respond to specific questions with respect the intent of government policy.

Specifically and relevant to this Appeal:

Myth: This isn't localism - the Framework takes control away from local communities

Fact: Not true. The Framework puts local people in the driving seat of decision making in the planning system. Communities will have the power to decide the areas they wish to see developed and those to be protected, through their Local Plan. Once a local plan is in place which has the support of the local community that is what will drive decision making.

Legislation will abolish the old regional strategies and top down housing targets. It will no longer be possible for Inspectors to enforce changes to local plans and new neighbourhood planning powers will give real control to local people.

Myth: Communities won't be able to protect green spaces or countryside

Fact: Rather than imposing targets or blueprints from above, this Government is changing things so local people and their councils decide for themselves where to locate development and how they want their local area to grow. Development will need to be sustainable and not in breach of the framework's environmental protections.

Myth: Will this allow wind farms to spring up in the wrong places

Fact: Strong environmental safeguards remain part of the planning system. Onshore wind is an important part of our national energy security and our low-carbon goals. But the presumption in favour of sustainable development is not a green light for wind turbines everywhere.

Ref para 4.1.3 & 7.6.1/2 – concerning the AECOM and AEAT renewable energy capacity studies.

Please refer to our statement pages 28-29.

Having announced the abolition of the Regional Governments, it is unclear having commissioned AECOM study, whether sufficient resources were available to review its output, for example the seemingly arbitrary nature of the practically viable locations and lack of application of cumulative impact buffers around installed and in construction wind farms.

The stakeholders and the steering group consisted of a number of Local Authorities (Excluding North Lincolnshire), Local Government Yorkshire and Humber, Yorkshire Forward, CO2 Sense Environment Agency, Royal Society for the Protection of Birds (RSPB), Energy Saving Trust, Forestry Commission and Natural England.

Meetings and discussions were held with “experts” consisting of Yorkshire Forward, CO2 Sense, Micro-generation Partnership, Natural England, Environment Agency, National Farmers Union David Farnsworth (Biomass consultant), SSE, operators of Ferrybridge “C” power station, CE Electric (main district network operator for Yorkshire and Humber) Banks Renewables (wind energy developers) RWE/Npower (wind energy developers) Renewable Energy Systems Ltd (wind energy developers) Civil Aviation Authority (CAA) Osprey Consulting on behalf of Leeds Bradford international airport, Humberside airport, Defence Estates on behalf of the Ministry of Defence, Forestry Commission and Dalkia (energy from waste developers).

It is clear that the stakeholders and “experts” do not constitute an un-biased quorum and validity of the study could be questioned on this basis alone.

Statement of Statement of Ms Kay Hawkins, - Landscape and Visual Amenity

Ref para 4.5.4 – concerning letters of objection.

Please refer to our statement page 10.

BATs comments are portrayed intermingled and indistinguishable from many other comments made by individual objectors.

Whilst “experts” will confirm that the effects on landscape visual amenity and the cumulative impact of many adjacent schemes, are significant and adverse, but then, proceed to mitigate, modify and sanitise these effects, it is the local residents who ultimately have to rationalise whether a scheme is acceptable or not.

Local residents do not perform landscape characterisations, categorise, assess and mitigate these impacts, they have an opinion which is no less relevant than “the experts” and in many respects more relevant. These residents have to live with the effects, which many cases will likely be for the rest of their lives.

Local residents have overwhelmingly portrayed their opinion of this proposed development in their letters of objection, such that the impact on their landscape and their visual amenity is not out weighed by the benefits of this development.

We request that significant weight is given to the opinions of those residents whose lives will be impacted long after the “experts” have left and moved on to the next proposal.

Appendix 2 - Turbines Within 15km of Grange

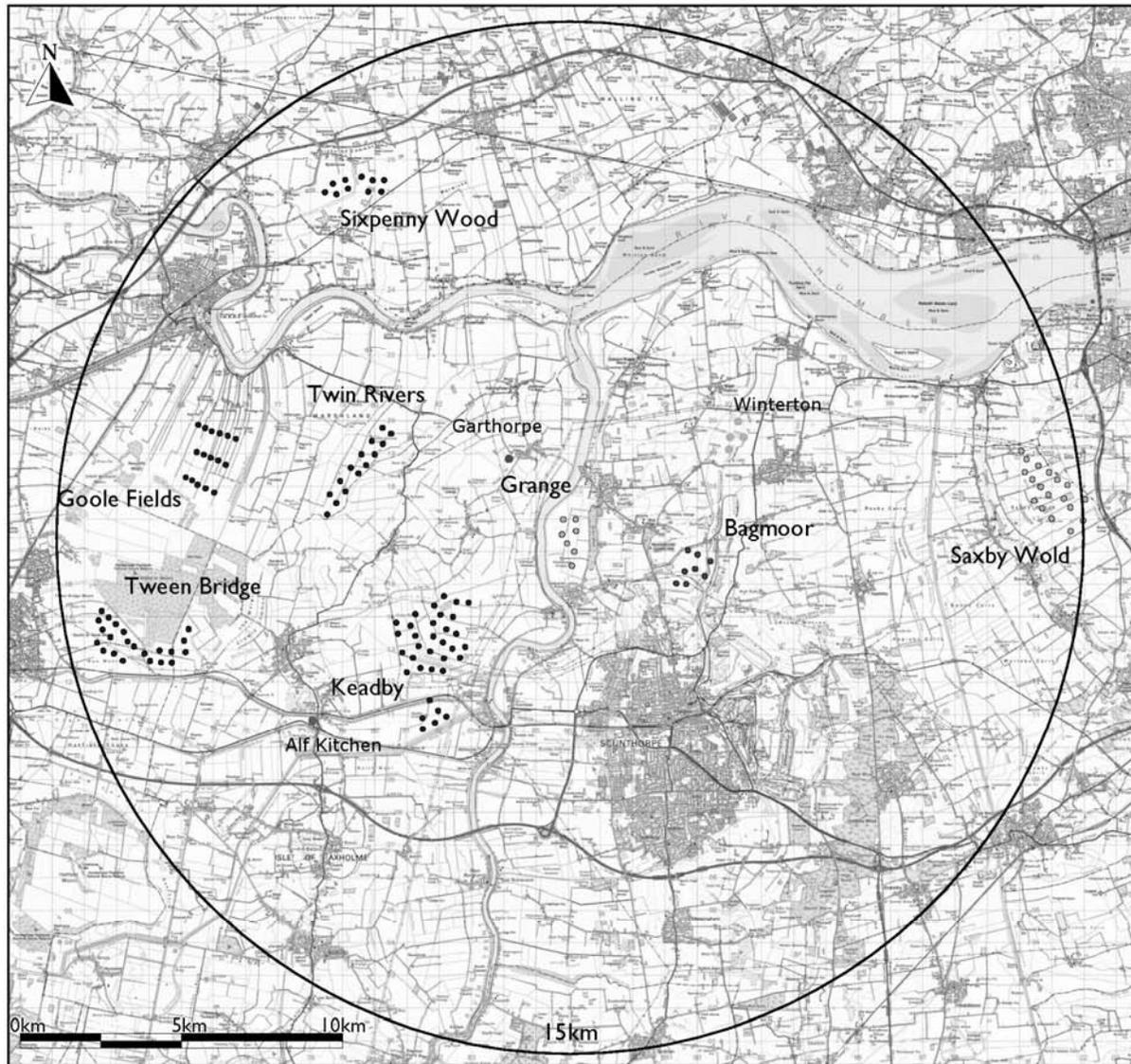


Figure 23.5

Grange Wind Farm

Wind Farms within Cumulative Assessment

Legend

- Proposed turbines
- Permitted turbines
- ◐ Operational turbines
- ◑ Turbine At Appeal