

Town and Country Planning Act 1990 (Section 78)

**Appeal by Grange Wind Farm Ltd against the refusal by the
North Lincolnshire Council to grant planning permission for the
construction of a wind farm comprising seven wind turbines and
associated hardstandings, tracks, anemometry mast, switchgear
house and underground cables on land adjacent to Flixborough
Grange Farmhouse, Flixborough, Scunthorpe, Lincs**

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

North Lincolnshire Council Reference: WF2010/1242

FURTHER STATEMENT OF

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1. **Introduction**

1.1 Further to my Statement submitted in support of the appeal, I have now prepared comments on the Council's Statement of Case.

2.0 **The Development Plan**

2.1 The Council make a significant error at the outset of their Statement (paragraphs 2.1 and 2.2), where they claim that their newly published Supplementary Policy Document is part of the Development Plan. It is not. It is currently the subject of consultation and there will be representations submitted by the appellants in relation to its contents. I commented in my original statement on the inadequacies of the draft SPD and that it should be given very little weight in the determination of the appeal. SPD does not carry the same weight under Section 38 if it has not been subject to any form of testing by an independent inspector at an inquiry, which can clearly not happen in this case since the Council intend to adopt it next month.

3.0 **National Planning Policy**

3.1 The commentary on national planning policy demonstrates a lack of understanding on the part of the Council in relation to national energy and planning policy. For example, they have cited conflict with PPS1 at paragraph 2.4 on the basis of alleged harm to the area, despite the fact that the previous appeal Inspector in considering the same proposal did not accept their arguments in the context of national policies. They appear to assess the development as unacceptable on the basis of its impacts without undertaking a proper balancing exercise. This is not an approach or a conclusion that is shared by either their officers in the Committee report or by the previous planning inspector). Furthermore, PPS7 on which the Council's statement relies at paragraph 2.6 does not provide the mechanism for the balancing exercise that is required at all levels of policy.

3.2 This lack of understanding of the crucial national issues is highlighted at paragraph 2.5 where they fail to address the key issues set out at various places in the

Supplement to PPS1, most notably at paragraph 40. It is also the case that they have overlooked paragraph 11, which advises that where the development plan has not been brought up to date to reflect current national policy, the Supplement may supersede such policies. In this instance, the reasons for refusal seek to rely on a local plan and SPG from 2004.

- 3.3 PPS4 to which the Council makes reference at paragraph 2.7 does not seek to deal with renewable energy; this is retained in the parts of PPS7 which remain extant. Nothing in the PPS on economic development in rural areas is aimed at a renewable energy development – it is aimed at economic development which is a quite different type of development.
- 3.4 The Council also seek to rely on PPG24 (wrongly cited as PPS24) at paragraph 2.8. However, the Council should be aware from the last appeal where they accepted that issues of noise could be dealt with by condition, and that ETSU-R-97, which is endorsed at all levels of national policy, is the appropriate guidance rather than PPG24.

4.0 **Regional Strategy**

- 4.1 This section on the RSS and the targets at paragraph 2.11 is misleading in that it seeks to overinflate the contribution that the Council area has already made and what may happen in the future. North Lincolnshire did not reach its 2010 target. It can meet the 2021 target in respect of wind energy as set out in the RSS by virtue of having lost a Section 36 inquiry into the Keadby and Tween Bridge wind farms which they vigorously opposed. The figures it now gives for the total of operational and consented rely very heavily not on wind but on a biomass permission near Immingham, whose future implementation is now seriously open to doubt. This is because both the EU and the UK Government are reconsidering the way in which biomass incineration should be treated. The EU have begun a process of assessing whether biomass is even to be considered as carbon neutral given the nature of the fuel and the sources of it. The UK Government is reconsidering whether the Renewables Obligation Certificates that currently exist should continue to be given for major biomass plants, in addition to their concerns over co-firing with biomass.

The largest plant consented to date in the UK is a 750MW conversion from fossil fuel to biomass at Tilbury, but even this is only be trialled for a period while decisions about the wider use of biomass are investigated. Thus to claim that there is a secure supply of well in excess of 400MW of renewable capability in the Council area is wholly unrealistic. However, the fact that an LPA may meet its targets is not a matter that weighs against the grant of further planning permission, a key area of national policy that is set out in PPS22.

5.0 **North Lincolnshire Planning Policy Framework**

- 5.1 The Council allegation at paragraph 2.12 that the development conflicts with Core Strategy policy CS18 because they consider this is an inappropriate location for a wind farm does not accord with the conclusion of the previous Inspector who agreed that this was an appropriate location for the development taking into account all the issues of landscape and visual effects as well as all other issues, apart from the potential effects on the autistic children; an issue which has now been resolved. This also applies to paragraph 2.13 which refers to the local plan policy in place at the time of the appeal. It applies with even more force to policy LC7 which the Inspector addressed in specific terms.
- 5.2 At paragraph 2.16 the Council rely on SPG13. This repeats the issues raised at the earlier inquiry where the Inspector did not give any material weight to a policy that suggested that the Council would review its targets “whilst having regard to progress elsewhere in Yorkshire and the Humber”. It is worth noting the very clear findings of a range of Inspectors as well as the Secretary of State on the same issue in East Riding, and indeed one where the Council had indeed passed its sub target for 2010 and had wind energy consents in place to pass its 2021 target more than ten years early. That Council has now lost seven appeals in the last three years, with successive appeal decisions noting that meeting the targets did not in any sense justify a refusal of further schemes. The findings of Inspector Baird only this month at Spaldington Airfield could hardly be clearer and this decision is attached to the appellants’ response. The relevant paragraphs are at 33-36.

5.3 I have already set out detailed comments on the shortcomings of the draft SPD, which is set out at great length in the Council's statement, in my original statement. The draft SPD does not accord with a range of Government energy policy and planning policy statements over the last three years. It retains the approach set out in their earlier SPG and which has underpinned their approach to all wind farm proposals in their area since the Bagmoor wind farm was approved, which is that it is for other parts of the region to catch up before they have to accept further wind farm developments. That approach is wrong on any assessment of national policy, and is also wrong even in the context of the RSS, since the only target which is relevant in the RSS in PPS22 terms is the overall one which has been missed by a massive amount – exactly as Mr Baird assessed it in the latest decision in East Riding.

6.0 **Landscape matters**

6.1 Miss Hawkins' supplementary statement deals with landscape matters. However, I note that Section 4 of the Council's statement acknowledges that their case is the same as before the Inspector at the last appeal. Effectively what the Council are arguing is that the Inspector's decision was wrong, and while that may be their view, it is not appropriate to seek to revisit the appeal on that basis. In that regard, the Council's own planning officers did not seek to argue that they should revisit all the same grounds as before. Similarly, Section 5 on landscape capacity also fails to recognise not only that the previous inspector had all the same material on targets and assessments, but that all the arguments the Council is now relying on were taken into account at the last appeal.

7.0 **Noise**

7.1 Mr Bennett has submitted a statement addressing the issues raised by the Council in respect of noise and I endorse those comments. Not only did the Council not pursue a noise objection at the last inquiry, but the Inspector was satisfied that this issue could be dealt with by appropriately worded conditions.

8.0 **Conclusions**

- 8.1 The Council have not produced any new evidence to support their refusal of planning permission, nor explained why the Inspector should depart in any way from his colleague's findings. The very recent appeal decision at Spaldington confirms that even if a target is reached in terms of built capacity, that does not in any way undermine the need to continue to approve appropriate sites. The Council do not even refer to the fact that the national targets have been increased by 50% since the RSS was published, or to the fact that the latest study into capacity in the Council's area identified the potential for a major increase in the use of wind power to meet the overall regional and national targets.