



The Planning Inspectorate

3/06 Wing
Temple Quay House
2 The Square
Bristol, BS1 6PN

Direct Line: 0117 372 6252
Customer Services: 0117 372 6372
Fax No: 0117 372 8181
e-mail: teamp7@pins.gsi.gov.uk

Mark Simmonds
North Lincolnshire Council
Development Management
Planning and Regeneration
Civic Centre
Ashby Road
Scunthorpe
DN16 1AB

Your Ref: WF/2010/1242
Our Ref: APP/Y2003/A/13/2190880/NWF
Date: 1 February 2013

Dear Mr

**Town and Country Planning Act 1990
Appeal by Grange Wind Farm Limited
Site at Grange Farmhouse, Flixborough, Scunthorpe, DN15 8RY**

I have received appeal forms and documents for this site. I am the case officer, if you have any questions, please contact me.

I have checked the papers and confirm that the appeal is valid. If I later find out that this is not the case, I will write to you again.

The procedure and starting date

The appellant has requested the written representations procedure. We have applied the criteria and considered all representations received, including the appellant's preferred choice. We consider that the written representations procedure is suitable and we intend to determine this appeal by this procedure.

The date of this letter is the **starting date** for the appeal.

Sending documents to us and looking at the appeal

If you post your documents, please:

- send one copy of the questionnaire and its supporting documents;
- send two copies of other documents as specified below;
- put the full appeal reference number on each copy.

If you email them to the email address above please quote the full appeal reference number. Guidance on communicating with us electronically can be found in GPA Note 06, which is available from:

www.planningportal.gov.uk/planning/appeals/planningappeals.



You can look at this case using the Planning Casework Service www.pcs.planningportal.gov.uk/pcsportal/casesearch.asp by typing in the appeal reference number and clicking on "Search for Cases".

Keeping to the timetable

You must keep to the timetable set out below and make sure that you send us the relevant documents within these deadlines. This will mean that we can deal with this appeal promptly and fairly. If you do not send us the relevant documents in time, the Inspector will not normally look at them and we will return them to you unless there are exceptional reasons for accepting them. Inspectors will not accept any documents from you or discuss the appeal at the site visit. Also, Inspectors will not delay their decision to wait for any such documents. You must note the details of the following timetable because we will not send any reminders.

The following documents must be sent within this timetable.

By 15 February 2013

You must notify any person who was notified or consulted about the application in accordance with the Act or a development order and any other interested persons who made representations to you about the application, that the appeal has been made. You should tell them:-

- i) that any comments they made at application stage will be sent to me and the appellant and will be considered by the Inspector (unless they withdraw them within the 6 week deadline). If they want to make any additional comments they must submit 3 copies within 6 weeks of the starting date, **by 15 March 2013**. If comments are submitted after the deadline, the Inspector will not normally look at them and they will be returned;
- ii) when and where the appeal documents will be available for inspection;
- iii) that the Planning Inspectorate will not acknowledge representations. We will, however, ensure that letters received by the deadline are passed on to the Inspector dealing with the appeal;
- iv) that they can get a copy of our booklet 'Guide to taking part in planning appeals proceeding by written representations' either free of charge from you or on your website, or on the Planning Portal (www.planningportal.gov.uk); and
- v) that the decision will be published on the Planning Portal.

You must send a copy of a completed appeal questionnaire and supporting documents, including relevant development plan policies, a copy of your notification letter and a list of those notified to the appellant and me. You have the opportunity to state your preferred choice of procedure by answering Question 1 of the appeal questionnaire.

By 15 March 2013

Please send me 2 copies of your statement if the appeal questionnaire does not give full details of your case. The appellant must send 2 copies of any statement to me if they need to add details to the case made in their grounds of appeal. I will send a copy of your statement to the appellant and send you a copy of their statement. Please include a list of any conditions or limitations you would agree to, if the appeal were to be allowed. I will send you and the appellant a copy of any comments sent by interested people or organisations.

By 5 April 2013

You and the appellant must submit 2 copies of any final comments you and they have on each other's statement and on any comments from interested persons or organisations. You must not send your final comments instead of, or to add to your statement. No new evidence is allowed at this stage. I will send you a copy of the appellant's final comments at the appropriate time.

Site visit

We will arrange for one of our Inspectors to visit the appeal site. If it is decided that the Inspector should be accompanied by the main parties, we will send you details of these arrangements nearer the time. If, however, an unaccompanied site visit can be made you will **not** be informed in advance and the Inspector should not be approached should you happen to observe him/her whilst he/she is conducting the site visit. If you were to do so the Inspector would of course identify him or herself but would not be able to engage in conversation with you at that time.

Withdrawing the appeal

If you hear that the appeal is to be withdrawn, please telephone me immediately. If I receive written confirmation of this from the appellant, I will write to you.

Costs

The appellant has been directed to our advice pamphlet '*Costs awards in planning appeals*'. You should also be aware that costs may be awarded to either party.

Planning obligations - section 106 agreements

A planning obligation, often referred to as a 'section 106 agreement', is either a legal agreement made between the LPA and a person 'interested in the land' or a legally binding undertaking signed unilaterally by a person 'interested in the land'. If you intend to submit a planning obligation you must read the guidance provided in GPA Note 16, which is available from:

www.planningportal.gov.uk/planning/appeals/planningappeals. A certified copy must be submitted to me no later than 9 weeks from the date of this letter.

Further information

Further information about the appeals process can be found in our Good Practice Advice Notes. These notes can be accessed at: www.planningportal.gov.uk/pcs or you can contact me if you want a hard copy of any of the notes. Advice on producing statements is in GPA Note 07. I recommend that you read the relevant guidance.

Yours sincerely

pp Rose Holland

WF/2010/1242

SQUIRE SANDERS

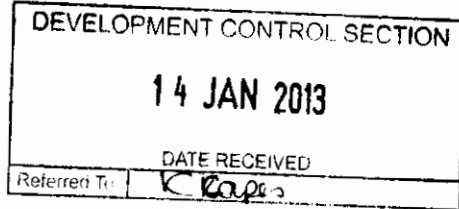
11 January 2013

Head of Development Control
North Lincolnshire
Civic Centre
Ashby Road
Scunthorpe
DN16 1AB

Squire Sanders (UK) LLP
2 Park Lane
Leeds
LS3 1ES
United Kingdom
DX 26441 Leeds

O +44 113 284 7000
F +44 113 284 7001
squiresanders.com

Emma C. O'Gorman
T +44 113 284 7066
DF +44 870 458 2419
emma.ogorman@squiresanders.com



Our ref
Your ref WF/2010/1242

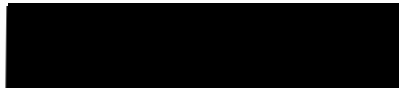
Dear Sirs

Grange Farm - Appeal against Refusal of an Application to Discharge Condition 26

Please find enclosed a completed Appeal form and associated Grounds of Appeal which has been submitted to the Planning Inspectorate, with today's date.

All other documents referred to have been previously submitted in the course of the Application.

Yours faithfully



Squire Sanders (UK) LLP

37 Offices in 18 Countries

Squire Sanders is the trade name of Squire Sanders (UK) LLP, a Limited Liability Partnership registered in England and Wales with number OC 335584 authorised and regulated by the Solicitors Regulation Authority. A list of the members and their professional qualifications is open to inspection at 7 Devonshire Square, London, EC2M 4YH. The status "partner" denotes either a member or an employee or consultant who has equivalent standing and qualifications.

Squire Sanders (UK) LLP is part of the international legal practice Squire Sanders which operates worldwide through a number of separate legal entities.

Please visit squiresanders.com for more information.



DEVELOPMENT CONTROL SECTION	
14 JAN 2013	
DATE RECEIVED	
Referred To	

**Appeal against non-determination of Application in relation to Condition 26
of the Grange Wind Farm Planning Permission**

- 1 On 7 March 2012, planning permission was granted on appeal for a wind farm at Flixborough Grange Farmhouse, Flixborough, Scunthorpe DN15 (the Grange Wind Farm). The Decision Letter (Enclosure 1) included a number of planning conditions, including Condition 26:

“Access to the compound shall be adjacent to and not over Bridleway 304 in accordance with details to be submitted to and approved in writing by the local planning authority”.

- 2 The compound referred to in the planning condition is the temporary construction compound for the wind farm, which is shown on the drawing at Enclosure 2. It will be seen from the appeal documents that the compound is in close proximity to Bridleway 304, which runs in a north – south direction immediately to the west of Burton Wood.
- 3 On 25 October 2012, an application was submitted under the provisions of Condition 26. The submitted details show the proposed method for segregating Bridleway 304 from the construction compound access track during the construction phase of the development. The access track is approximately 150 – 200 metres in length and runs from the adopted public highway that lies to the south of the compound. It will be segregated from the bridleway by a post and wire fence.
- 4 The application was refused by letter dated 3 January for the following reason:

The Council is of the opinion that the potential conflict between construction traffic and walkers and horse-riders will create a public safety issue and change the environment for the public from one of safety to non-safety particularly for horseriders. The Council believes that the access road and bridleway need to be completely separated and/or a separate haul road should be created.

The details, as submitted, are not acceptable.

- 5 At a meeting with the Case Officer, members of the local planning authority and objectors to the wind farm proposal on 4 December 2012 to discuss planning conditions, it was suggested that Condition 26 requires the access to the wind farm site to be segregated from Bridleway 304 where it is also coincident with the public highway for vehicular traffic. The extent of the bridleway on the public highway is also shown on the drawing at Enclosure 2.
- 6 As will be evident from paragraph 3 of the Decision Letter, the proposals for the wind farm development are identical to those dismissed on appeal in 2010 and the access arrangements to the wind farm site remain unchanged. However, in the previous planning application the construction compound was proposed in a different location to that which is now proposed. Had it been considered necessary to segregate access traffic from the bridleway where it is coincident with the public highway used by vehicular traffic, the local planning authority would have proposed a planning condition in similar terms to Condition 26 when the earlier planning application was being considered. However, at no stage during the determination of that planning application or appeal was it suggested by the authority that a condition was required to segregate access traffic from Bridleway 304.
- 7 No evidence was submitted to the appeal hearing in January 2012 suggesting that matters had changed in relation to the use of the public highway by construction vehicles or that conflict would arise with users of the bridleway where it is coincident with that highway. The condition was clearly proposed by the Council to ensure that the access track to the compound was separated from the bridleway for the short section to the north of the vehicular highway. This can be seen from the consultation response of the Council's Rights of Way Officer to the wind farm planning application in November 2010, which stated:

Further to application WF/2010/1242, the Public Rights of Way section of the Environment Team, would like the following condition added if permission is granted:

Access to the compound, from the end of the adopted highway, to be adjacent to and not over Public Bridleway 304.

This will require approx 100m of stoned road to the side of the Bridleway. The reason for this request is to safeguard the public by reducing the possible conflict between users and vehicles.

- 8 The proposed access to the wind farm site was clearly shown on the application drawings and the accompanying Environmental Statement. To interpret the condition

in the manner suggested by the local planning authority would necessitate a new access road being constructed alongside the existing public highway, including a new/widened bridge beneath or new bridge above the Flixborough Wharf rail line. The diversion of the existing bridleway (even for a temporary period) would not satisfy the terms of the condition, if the local planning authority's interpretation was correct. This would effectively derogate from the grant of planning permission, which would make the planning condition unlawful.

- 9 The Council has no evidence to support its contention that the potential conflict between construction traffic and walkers and horse-riders will create a public safety issue and change the environment for the public from one of safety to non-safety particularly for horse-riders. The details submitted on behalf of the Appellant on 25 October 2012 meet the requirements of Condition 26. We would request that the appeal be allowed and the details be approved.

11 January 2012

The Planning Inspectorate

For official use only
(Date received)
11-Jan-2013 16:17

PLANNING APPEAL FORM (Online Version)

DEVELOPMENT CONTROL SECTION
14 JAN 2013
DATE RECEIVED

To help you fill in this form correctly, please refer to the guidance leaflet "How to complete your planning appeal form".

WARNING: The appeal **and** essential supporting documents **must** reach the Inspectorate within the appeal period. **If your appeal and essential supporting documents are not received in time we will not accept the appeal.**

APPEAL REFERENCE: APP/Y2003/A/13/2190880

A. APPELLANT DETAILS

The name of the person(s) making the appeal must appear as an applicant on the planning application form.

Name Grange Wind Farm Limited
Address 7 Berekeley Square Phone no.
Clifton
Bristol Fax no
Postcode BS8 1HG E-mail

Please confirm how you wish to correspond with us: Electronically, via the email address specified above
On paper, by post.

B. AGENT DETAILS FOR THE APPEAL (if any)

Name Miss Emma O'Gorman
Address Squire Sanders Your reference DG.RID.063-0004
2 Park Lane
Leeds Phone no. [REDACTED]
Fax no.

Postcode LS3 1ES E-mail [REDACTED]
Please confirm how you wish to correspond with us: Electronically, via the email address specified above
On paper, by post.

C. LOCAL PLANNING AUTHORITY (LPA) DETAILS

Name of the LPA North Lincolnshire Council
LPA's reference number WF/2010/1242
Date of the planning application 26 Oct 2012
Date of the LPA's decision (if issued) 03 Jan 2013

D. APPEAL SITE ADDRESS

Address Grange Farmhouse
Flixborough
Scunthorpe

Postcode DN15 8RY

Grid Reference: Easting 0486005

Northing 0416288

Is the appeal site within a Green Belt? YES NO

Are there any health and safety issues at, or near, the site which the Inspector would need to take into account when visiting the site? YES NO

E. DESCRIPTION OF THE DEVELOPMENT

Size of the whole appeal site
(in hectares)

Area of floor space of proposed development
(in square metres)

3.4

Has the description of the development changed from that stated on the application form?
YES NO

If YES, please state below the revised wording, and enclose a copy of the LPA's agreement to the change.

Construction of 6 wind turbines and associated hardstandings, tracks, anemometry mast, switchgear house and underground cables for the purpose of generating electricity

F. REASON FOR THE APPEAL

This appeal is against the decision of the LPA to:-

Please tick **one** box only

- 1 Refuse planning permission for the development described on the application form or in Section E.
- 2 Grant planning permission for the development subject to conditions to which you object.
- 3 Refuse approval of the matters reserved under an outline planning permission.
- 4 Grant approval of the matters reserved under an outline planning permission subject to conditions to which you object.
- 5 Refuse to approve any matter required by a condition on a previous planning permission (other than those in 3 or 4 above).

or

- 6 Failed to give notice of its decision within the appropriate period (usually 8 weeks) on an application for permission or approval.

G. CHOICE OF PROCEDURE

There are 3 possible choices:- written representations, hearings and inquiries. You should consider carefully which method suits your circumstances before selecting your preferred option by ticking the box.

1. THE WRITTEN REPRESENTATIONS PROCEDURE _____ ✓

This is normally the simplest, quickest and most straightforward way of making an appeal. The written procedure is particularly suited to small-scale developments (e.g. individual houses or small groups of houses; appeals against conditions or changes of use).

- a) Could the Inspector see the relevant parts of the appeal site sufficiently to judge the proposal from public land? YES ✓ NO
- b) Is it essential for the Inspector to enter the site to check measurements or other relevant facts? YES NO ✓

If so, please explain below or on a separate sheet.

2. THE HEARING PROCEDURE _____

This procedure is likely to be suited to more complicated cases which require detailed discussion about the merits of a proposal. At the hearing the Inspector will lead a discussion on the matters already presented in the written statements and supporting documents. Although you may indicate a preference for a hearing, the Inspectorate must also consider that your appeal is suitable for this procedure. You must give detailed reasons below or on a separate document why you think a hearing is necessary.

Please answer the question below.

- a) Is there any further information relevant to the hearing which you need to tell us about? If so please explain below. YES NO

3. THE INQUIRY PROCEDURE _____

This is the most formal of procedures. Although you may indicate a preference for an inquiry the Inspectorate must also consider that your appeal is suitable for this procedure. You must give detailed reasons below or in a separate document why you think an inquiry is necessary.

- | | |
|---|------------------|
| a) How long do you estimate the inquiry will last?
(Note: We will take this into consideration, but please bear in mind that our estimate will also be informed by others' advice and our own assessment.) | No. of days |
| b) How many witnesses do you intend to call? | No. of witnesses |
| c) Is there any further information relevant to the inquiry which you need to tell us about? If so, please explain below.
Please continue on a separate sheet if necessary. | YES NO |

H. GROUNDS OF APPEAL

Do you intend to submit a planning obligation (a section 106 agreement or a unilateral undertaking) with this appeal? YES NO ✓

** See separate documents **

H. GROUNDS OF APPEAL (continued)

I. (part one) APPEAL SITE OWNERSHIP DETAILS

We need to know who owns the appeals site. If you do not own the appeal site or only own a part of it, we need to know the name(s) of the owner(s) or part owner(s) and be sure that you have told them that you have made an appeal. YOU MUST TICK WHICH OF THE CERTIFICATES APPLIES.

If you are the sole owner of the whole appeal site, certificate A will apply:

Please tick **one** box only ✓

CERTIFICATE A

I certify that, on the day 21 days before the date of this appeal, nobody except the appellant, was the owner of any part of the land to which the appeal relates:

OR

CERTIFICATE B

I certify that the appellant (or the agent) has given the requisite notice (see the *Guidance Notes*) to every one else who, on the day 21 days before the date of this appeal, was the owner of any part of the land to which the appeal relates, as listed below: ✓

Owner's name	Address at which the notice was served	Date the notice was served
Ms A Sheffield	Flat 3, 182 Ashmore Road, London W9 3DE	11 Jan 2013
Ms L Jackson	116A Tufnell Park Road, London N7 0DU	11 Jan 2013
Sir Reginald Sheffield	The Estates Office, Normanby DN15 9HS	11 Jan 2013

CERTIFICATES C & D

If you do not know who owns all or part of the appeal site, complete either Certificate C or Certificate D in the guidance leaflet and attach it to the appeal form.

I (part two) AGRICULTURAL HOLDINGS CERTIFICATE

We also need to know whether the appeal site forms part of an agricultural holding.

Please tick either (a) or (b). ✓

(a) None of the land to which the appeal relates is, or is part of, an agricultural holding:

OR

(b)(i) The appeal site is, or is part of an agricultural holding, and the appellant is the sole agricultural tenant:

(b)(ii) The appeal site is, or is part of, an agricultural holding and the appellant (or the agent) has given the requisite notice to every person (other than the appellant) who, on the day 21 days before the date of the appeal, was a tenant of an agricultural holding on all or part of the land to which the appeal relates as listed below: ✓

Tenant's name	Address at which the notice was served	Date the notice was served
Norman Jackson	Airmine House, Appelby DN15 0AB	11 Jan 2013
William Jackson	Airmine House, Appelby DN15 0AB	11 Jan 2013
Simon Ogg	East Farm, Flixborough DN15 8RL	11 Jan 2013

Details of additional tenants

J. ESSENTIAL SUPPORTING DOCUMENTS

You **must** send the documents listed 1-7 below with your appeal form.
Please tick the boxes to show which documents you are enclosing.

- 1 A copy of the original **planning application** sent to the LPA. ✓
- 2 A copy of the **site ownership certificate** and **agricultural holdings certificate submitted** to the LPA ✓
at application stage (this is usually part of the LPA's planning application form).
- 3 A copy of the **LPA's decision notice** (if issued). Or, in the event of the failure of the LPA to give a decision, if possible please enclose a copy of the LPA's letter in which they acknowledged the application. ✓
- 4 A **site plan** (preferably on a copy of an Ordnance Survey map at not less than 10,000 scale) showing the general location of the proposed development and its boundary. This plan should show two named roads so as to assist identifying the location of the appeal site or premises. The application site should be edged or shaded in red and any other adjoining land owned or controlled by the appellant (if any) edged or shaded blue. ✓
- 5 Copies of all **plans, drawings and documents** sent to the LPA as part of the application. ✓
The plans and drawings should show all boundaries and coloured markings given on those sent to the LPA.
Please number them clearly and list the numbers here or on a separate sheet:
- 6 Copies of all **additional plans, drawings and documents** sent to the LPA but which did not form part of the original application (e.g. drawings for illustrative purposes).
Please number them clearly and list the numbers here or on a separate sheet:
- 7 A copy of the **design and access statement** sent to the LPA (if required)

You must send copies of the following, if appropriate:

- 8 Additional plans, drawings or documents relating to the application but **not previously seen by the LPA**.
Please number them clearly and list the numbers here or on a separate sheet:
- 9 Any relevant **correspondence** with the LPA. Including any supporting information submitted with your application in accordance with the list of local requirements. :
- 10 If the appeal is against the LPA's refusal or failure to approve the **matters reserved under an outline permission**, please enclose:
 - (a) the relevant outline application;
 - (b) all plans sent at outline application stage;
 - (c) the original outline planning permission.
- 11 If the appeal is against the LPA's refusal or failure to decide an application which relates to a **condition**, we must have a copy of the original permission with the condition attached.
- 12 A copy of any **Environmental Statement** plus certificates and notices relating to publicity (if one was sent with the application, or required by the LPA).

K OTHER APPEALS

If you have sent other appeals for this or nearby sites to us and these have not been decided, please give details and our reference numbers.

L CHECK SIGN AND DATE

(All supporting documents must be received by us within the time limit)

I confirm that I have sent a copy of this appeal form and relevant documents to the LPA (*if you do not your appeal will not normally be accepted*).

I confirm that all sections have been fully completed and that the details of the ownership (section I) are correct to the best of my knowledge.

Signature

Date 11 January 2013

Name (in capitals) Miss Emma O'Gorman

On behalf of (if applicable) Grange Wind Farm Limited

The gathering and subsequent processing of the personal data supplied by you in this form, is in accordance with the terms of our registration under the Data Protection Act 1998. Further information about our Data Protection policy can be found in the guidance leaflet.

M. NOW SEND

- **Send a copy to the LPA**

Send a copy of the appeal form to the address from which the decision notice was sent (or to the address shown on any letters received from the LPA). There is no need to send them all the documents again; send them any supporting documents not previously sent as part of the application. If you do not send them a copy of this form and documents, we may not accept your appeal.

- **You may wish to keep a copy of the completed form for your records**

When we receive your appeal form, we will write to you letting you know if your appeal is valid, who is dealing with it and what happens next.

N. APPEAL DOCUMENTS

We will not be able to validate the appeal until all the necessary supporting documents are received.

Please remember that all supporting documentation needs to be received by us within the appropriate deadline for the case type. If forwarding the documents by email, please send to **appeals@pins.gsi.gov.uk**. If posting, please enclose the section of the form that lists the supporting documents and send it to PO Box 2606, Bristol, BS1 9AY.

You will not be sent any further reminders.

Please ensure that anything you do send by post or email is clearly marked with the reference number:

APP/Y2003/A/13/2190880

Please ensure that a copy of your appeal form and any supporting documents are sent to the local planning authority.

* The Documents Listed Below Were Uploaded With The Appeal Form *

===== GROUNDS OF APPEAL =====
TITLE: Grounds of Appeal 1
DESCRIPTION: Grounds of appeal
FILENAME: Grounds of Appeal (Grange Farm).pdf

TITLE: Grounds of Appeal 1
DESCRIPTION: Enclosure 1
FILENAME: Decision Letter and Enclosure 1.pdf

TITLE: Grounds of Appeal 1
DESCRIPTION: Enclosure 2
FILENAME: Enclosure 2 .pdf

===== ESSENTIAL SUPPORTING DOCUMENTS =====
TITLE: 01. A copy of the original planning application sent to the LPA.
DESCRIPTION: Application Form and Letter
FILENAME: Application Form and Covering Letter.pdf

TITLE: 02. A copy of the site ownership certificate and agricultural holdings certificate submitted to the LPA at application stage (these are usually part of the LPA's planning application form).
DESCRIPTION: Owner and Tenant Notices
FILENAME: Certificates B and C.pdf

TITLE: 03. A copy of the LPA's decision notice (if issued). Or, in the event of the failure of the LPA to give a decision, if possible please enclose a copy of the LPA's letter in which they acknowledged the application.
DESCRIPTION: Refusal Notice
FILENAME: Refusal Notice.pdf

TITLE: 04. A site plan (preferably on a copy of an Ordnance Survey map at not less than 10,000 scale) showing the general location of the proposed development and its boundary. This plan should show two named roads so as to assist identifying the location of th
DESCRIPTION: Location Plan
FILENAME: Site Location Plan.pdf

TITLE: 05. Copies of all plans, drawings and documents sent to the LPA as part of the application. The plans and drawings should show all boundaries and

Continued on Supplementary Sheet

SUPPLEMENTARY SHEET

Appeal Documents (continued)

coloured markings given on those sent to the LPA.

DESCRIPTION: Compound Access Plan

FILENAME: Compound Access Segregation Plan and Appendices.pdf

TITLE: 05i. A list of all plans, drawings and documents (stating drawing numbers)
submitted with the application to the LPA.

DESCRIPTION: List of Drawings

FILENAME: Drawings List.pdf