

MEETING OF THE DEVELOPMENT COMMITTEE

20TH FEBRUARY 2013

REPORT OF THE APPLICATIONS AND ADVICE MANAGER

APPLICATION 10/00951/FUL- WIND FARM COMPRISING OF 9 TURBINES TOGETHER WITH ASSOCIATED ANCILLARY INFRASTRUCTURE ETC. – ASFORDBY WINDFARM SITE BYPASS ROAD, ASFORDBY

1. PURPOSE OF THE REPORT

- 1.1 To seek the Committee's authorisation to specify the appropriate parts of the East Midlands Regional Plan for the purposes of defending the Council's grounds for refusal at Public Inquiry.

2. RECOMMENDATION

- 2.1 That East Midlands Regional Plan Policies 26, 31 and 26 are included in the Council's defence of the reasons for refusal at the Inquiry.

3. INTRODUCTION AND BACKGROUND

- 3.1 Planning application 10/00951/FUL was refused permission on the 27th July 2012 for the erection of a wind farm. The reasons for refusal were as follows:-

- 1) *The proposed development would result in substantial harm to the setting of St Bartholomew's Church (Grade II*), Welby arising from the wind farm and turbines 1, 2, 3 and 4 in particular and significant harm to the setting of St James the Greater Ab Kettleby (Grade II*) St Peter's Church (Kirby Bellars) and the and to the setting of the Moated Site at Ab Kettleby Garden, Moat and Five Fishponds at Kirby Bellars (which are Scheduled Ancient Monuments). It would also result in a cumulative harmful impact on the setting of a wide range of other heritage assets in the immediate and wider area. It is not considered that the benefits accruing from the development in terms of renewable energy generation, the proposed landscape mitigation measures and the proposed interpretation area for the deserted Welby Medieval Village are sufficient to outweigh these identified sources of harm and as such the development does not meet the criteria set out in the NPPF (paras 133 and 134) and National Policy Statement for Renewable Energy Infrastructure (read in conjunction with the relevant sections of the Overarching National Policy Statement for Energy Infrastructure)*
- 2) *The proposed wind turbines would, by virtue of their height, distribution in the landscape and movement, introduce a new element into this landscape that would be widely visible. This visibility and presence would exceed that of any existing local features by reason of the height, colour and movement of the proposed turbines. The development would constitute a prominent feature in the open countryside which would fail to protect or enhance its distinctive local character and is not capable of mitigation or adequate compensation. Accordingly the development is contrary to the provisions of Policy OS2 of the adopted Melton Local Plan and the objectives of the East Midlands Regional plan, and the guidance offered in the NPPF (para 109). These impacts are not considered to be*

outweighed by the benefits of the proposal in terms of the generation of renewable energy.

- 3.2 Following the refusal of planning permission an appeal has been made to the Secretary of State. The appeal is to be decided by a Public Inquiry which is due to be heard on 7th – 24th May, subject to the Inspectors agreement, and the Council's case to defend the decision is currently being compiled.
- 3.3 The purpose of this report is to consider the policy grounds stated within the reasons for refusal after seeking Counsel advice for the forthcoming Public Inquiry (n.b. the wording of two reasons would not be affected by this decision just the addition of policy references).

4. APPRAISAL

- 4.1 In the process of preparing for the appeal Counsel has been appointed and has reviewed the grounds of refusal. In the course of his review he has advised that he considers that specific policies from the East Midlands Regional Plan will form part of the appeal and should be included in the Council's defence of its decision.
- 4.2 Policy 40 of the East Midlands Regional Plan, 'Regional Priorities for Low Carbon Energy Generation', states the criteria for which Local Planning Authorities should assess onshore wind energy. A copy of Policy 40 is attached in Appendix A. Counsel has advised that this Policy should support the Council's grounds of refusal.
- 4.3 Policy 26 of the East Midlands Regional Plan, 'Protecting and Enhancing the Region's Natural and Cultural Heritage', relates to the protection of heritage assets. A copy of Policy 26 is attached in Appendix A. Counsel has advised that Reason 1 of the Council's grounds of refusal will require reference to Policy 26.
- 4.4 Policy 31 of the East Midlands Regional Plan, 'Priorities for the Management and Enhancement of the Region's Landscape', and relates to the protection and enhancement of the natural and heritage landscapes. A copy of Policy 31 is attached in Appendix A. Counsel has advised that Reason 2 of the Council's grounds of refusal will require specific reference to Policy 31..
- 4.5 It is considered that incorporating the above Policies would better equip the Council in defending the decision at the forthcoming appeal.

5. CONCLUSION

- 5.1 The Committee is requested to authorise reference to the above Policy citations in defending the reasons for refusal at the Public Inquiry. It is considered that the specification of these policies would assist the witnesses in defending the Council's decision.
- 5.2 The addition of these Policies does not alter the Council's grounds for refusal. However, the Policy citations are considered to enable the Council to make a more robust case and would greatly assist in defending the decision at the forthcoming Public Inquiry.

Date: 11th February 2013

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Background documents: Planning application file 10/00951/FUL

Appendix A: Extracts from the East Midlands Regional Plan