

RURAL ECONOMIC AND ENVIRONMENT COMMITTEE

4th SEPTEMBER 2013

REPORT OF HEAD OF REGULATORY SERVICES

GUIDANCE DOCUMENT ON WIND ENERGY

1.0 PURPOSE OF REPORT

- 1.1 To consider the arrangements for the preparation of a Landscape Capacity Study to provide guidance on renewable wind energy proposals.

2.0 RECOMMENDATIONS

2.1 It is recommended that the Committee:

- (i) **Determine whether to proceed with the exercise and, if so, which out of the three options A, B or C is the preferred methodology to complete.**
- (ii) **Authorise the preparation of a Landscape Capacity Study based on the scope, evidence requirements and timetable set out in this report;**
- (iii) **Approve the use of the Corporate Reserve to finance the completion of the document.**

3.0 KEY ISSUES/BACKGROUND

- 3.1 The REEA Committee on the 9th January 2013 instructed officers, in consultation with the Leader and the Chair of the Committee, to commission a Renewable Wind Energy Supplementary Planning Document. The SPD once adopted would collate, analyse and present an evidence base for wind power; such an approach will allow applicants, developers, officers and stakeholders to establish a better understanding of the factors affecting decisions on wind power installations in the Borough.
- 3.2 However, Legal advice has been obtained on the status of such an approach which is detailed in Section 6 of this report below. In view of this advice, The Committee is invited to consider whether the intentions determined in January 2013 remain desirable or whether an alternative approach is preferred. It is considered that it would be possible to undertake the exercise and, in addition the benefits it would provide at present (see section 6 below) it would provide strong evidence base for the development of a Local Plan policy on the subject matter, and could be revisited to reassign its status at the appropriate time (i.e. to consider whether there remains a need, and what steps should be taken, to develop the document into an SPD after the Local Plan has been adopted).
- 3.3 In order for a document to be robust it is considered that it should provide detailed guidance on the key issues that will need to be addressed when planning for wind energy developments in the Borough. A key piece of evidence would be to produce a detailed landscape sensitivity and capacity study (LSCS).
- 3.4 The LSCS would include an assessment of the landscape character areas within the (and smaller landscapes units if identified as being appropriate) to accommodate different scales of wind energy development; an assessment of potential impacts on any landmark landscape features; an assessment of visual sensitivity of the Borough considering views from important view points and sensitive routes; and maps showing

the landscape and visual sensitivity and capacity of each landscape character area to accommodate different scales of wind development. Such guidance for potential wind energy proposals in areas with capacity would form an important part of the LSCS.

3.5 Options for moving forward

Members will recall the recent presentation given by Halcrow and landscape sub consultant Bayou Blueenvironment on the 17th June 2013 on the progress of the wind power guidance. Three options for progressing the guidance were presented with particular reference to landscape sensitivity and capacity and residential amenity issues, further details are discussed within Appendix 1. The three options were:

- Option A- Completing the guidance in accordance with the commissioned brief
- Option B- Undertaking a wind energy landscape and visual sensitivity assessment to inform the guidance.
- Option C- As Option B, but the assessment goes further to define the amount of wind energy development possible or desirable within each landscape character area.

3.6 Two further meetings have been held, with Members and Parish Councils to highlight the most important viewpoints within the Borough to be assessed as part of the landscape capacity study, should Options B or C be selected. These discussions highlighted the following viewpoints:

- View to Bottesford Church
- View from the Grantham Canal towards Bottesford
- The view from Waltham Lane, AB Kettleby
- The view from the timber yard Mussom
- The view from Oakham to the South of Burton Lazars
- The views from Ragdale Hall Car Park
- All of the Vale of Belvoir
- The views from Bottesford Canal
- The view from Little Dalby Hall
- Pickwell Hills
- The views along Jubilee Way
- The views from Rotherby into Melton Mowbray
- The view points from the Hall at Gaddesby
- The view from Burrough Hill Fort
- The view from Stapleford Park
- The view from Hall at Ashby Folville
- The view from Little Dalby Hall
- The view to Burrough Hill from the Scheduled Ancient Monument to the West of Burton Lazars
- The Conservation Areas in the smaller villages and also the town itself should have special consideration.

3.7 Further input is expected from the Parish Councils, following consultation with their parishioners. The information gathered from this exercise will form part of the study.

3.8 New Guidance

The Department for Communities and Local Government published the Planning practice guidance for renewable and low carbon energy on the 29th July 2013. The publication of the guidance will not have an impact on the methodology for the landscape capacity study set out within Appendix 1 of this report. The emphasis of the

guidance is on allowing development in the right place where local environmental impacts are (or can be made) acceptable.

3.9 The final study will provide flexibility by giving an indication of likely landscape and visual sensitivity and capacity in accordance with the local environmental circumstances.

3.10 When determining planning applications for renewable wind energy, consideration will have to be given to the planning issues specific to each proposals, for example noise impacts and the risk to ecology including landscape and visual impact. The study will not be able to prescribe precise locations where turbines may, and may not, be sited.

4.0 POLICY AND CORPORATE IMPLICATIONS

4.1 The Renewable Wind Energy guidance will set out the criteria against which applications for wind turbine development would be judged, and will be used as material consideration when determining such applications.

5.0 FINANCIAL AND OTHER RESOURCE IMPLICATIONS

5.1 The cost of the exercise to date is £16,546.00. The fee for this includes Landscape Capacity Study Option A, as discussed previously within this report.

5.2 In response to concerns raised by the consultants in relation to the level detail required to support the exercise, the consultants have proposed two further options as discussed above. Option B would require an additional £3,500.00 and the more detailed Option C would require an additional £14,250.

5.3 If members determine Option C is the preferred way forward. There is the opportunity to carry out a further tendering exercise for the landscape capacity study. This evidence will then need to be integrated into the SPD currently being prepared by the consultants. This would however add additional time to the current timetable, with an approximate completion date of December 2013.

5.4 As part of the tendering exercise a good cost quality model will be utilised, which clearly indicates to applicants what is required, in order to avoid any hidden costs at a later date in the production of the landscape capacity study.

5.5 There is currently no provision in the Melton Local Plan budget for the Landscape Capacity Study to complete the document and, therefore the additional funding would need to be allocated from the Corporate Reserve.

6.0 LEGAL IMPLICATIONS/POWERS

6.1 Once adopted by the Council, the document will be a material consideration in determining planning applications for relevant development. The document would provide detailed evidence to support and inform assessment of proposals. The policy context for such proposals is set principally by the NPPF which contains policies on amenity levels, 'valued landscapes' etc. The content would be informative for assessments of proposals within these pre-determined policies.

6.1 A legal opinion has been received which states any policies contained in a SPD must not conflict with the adopted development plan document, given the absence of a development plan, an SPD would not have any basis upon which it could be justified. Policies for the location of turbines, together with more detailed policies such as separation distances, noise limits etc, should be promoted through the Local plan process only. The promotion of a requirement for minimum separation distances in respect of wind turbine development would not be justified, based on the Milton

Keynes case, would be highly likely to invite challenge by way of judicial review to would such a challenge would be successful.

- 6.3 It has been considered whether there is any alternative means of creating policy or guidance by means other than a DPD, as suggested above an absence of a development plan document would not provide the basis upon which it could be justified.
- 6.4 The legal opinion concludes that the Council should not seek to promote an SPD or SPG dealing with onshore wind energy development but instead promote a new development plan document containing policies relating to renewable wind energy. Further advice has been sought as to the optimum time to develop an SPD and its relationship with the production of the Local Plan, and this will be reported to the Committee verbally.
- 6.5 In view of the legal advice referred to at paras. 6.2 – 6.4 above, the role of the document will be to provide evidence to inform decisions made on renewable energy and assist prospective developers in their assessment of site selection. The policy considerations will remain those in the adopted Melton Local Plan and the NPPF (principally the latter, due to age of the Local Plan and the absence of specifically related policies in its content) and the document will assist with these (e.g. landscape impact). It should be noted that the content of the document will be only one consideration – other factors such as site-specific impacts on residential amenity (from noise and/or visual intrusion), ecological features and the feedback from consultees, such as on aviation safety.

7.0 COMMUNITY SAFETY

7.1 There are no direct community safety implications as a direct result of this report

8.0 EQUALITIES

8.1 There are no direct Equalities implications as a direct result of this report

9.0 RISKS

9.1 Without the guidance, the Council would be reliant on ad-hoc and more subjective assessment of proposals under the criteria set out in the National Planning Policy Framework., on a case by case basis.

Very High A	2				
High B					
Significant C					
Low D	1				
Very Low E					
Almost Impossible F					
	IV Neg-ligible	III Marg-inal	II Critical	I Catast-rophic	

Risk No.	Description
1	Guidance does not assist in assessing wind power proposals
2	Guidance falls short of a interested party's aspirations for a full policy statement

10.0 CLIMATE CHANGE

10.1 The 2009 Energy Directive sets a target for the UK to derive 20% of energy from renewable energy sources by 2020. The guidance will be used as material consideration in determining planning applications for the development of wind turbines, in order to get the correct balance of delivering renewable energy and the impacts on the landscape, nearby residential properties and other issues as identified in this report.

11.0 CONSULTATION

11.1 There are no consultations to consider at this stage. Consultation on the guidance will be carried out in accordance with the Council's Statement of Community Involvement.

12.0 WARDS AFFECTED

12.1 All wards are affected

Contact Officer:	Ms K Mills, Planning Policy Officer
Date:	15 th August 2013
Appendices:	Appendix1 Landscape Capacity Options
Background Papers:	Report to REEA Committee January 2013