

# **AGENDA ITEM 3C**

## **EXTRAORDINARY MEETING OF FULL COUNCIL**

**1st SEPTEMBER 2016**

### **REPORT OF THE HEAD OF REGULATORY SERVICES**

#### **REVIEW OF MELTON LOCAL PLAN POLICY EN10 – RENEWABLE ENERGY (WIND)**

##### **1.0 PURPOSE OF REPORT**

- 1.1 The purpose of this report is to convey to the Council the results of further consideration of the Melton Local Plan Working Group given to Policy EN10 of the Local Plan, in respect of Wind Energy.
- 1.2 Members will recall that the consultation responses for all chapters of the Local Plan were presented for consideration on 27<sup>th</sup> July 2016. Council resolved that policy EN10, in relation to wind energy, should be the subject of additional consideration by the Melton Local plan Working Group and this was carried out on 11<sup>th</sup> August 2016.

##### **2.0 RECOMMENDATIONS**

###### **2.1 That the Council :**

- (i) Notes the representations received (appendix A)**
- (ii) Agrees that the Local Plan (Submission version) is prepared on the basis indicated at para 3.7.1 below (as illustrated in Appendix B)**

##### **3.0 KEY ISSUES**

- 3.1 The background to this policy dates back to 2013 and 2014 when the Council received several applications for wind turbines but, due to the age and content of the 1999 Melton Local Plan, was confined to using only the guidance within the NPPF to form the basis for decisions. This guidance was limited in content and positive in intent and resulted in permission being granted for several turbines.
- 3.2 In an effort to create a more objective and evidence-based approach the Council , working alongside Rushcliffe Borough Council, commissioned a detailed 'Melton and Rushcliffe Landscape Sensitivity Study' addressing the relative abilities of the different parts of the Borough to accommodate turbines (though recognising each proposal required a site specific assessment). This was used as evidence to assess the policy lead provided by the NPPF regarding landscape impacts.
- 3.3 At the time of its production, there were aspirations to develop a local policy on this subject. However, it coincided with the commencement of the new Local Plan and legislative changes regarding the production of Supplementary Planning Documents (SPD), and as such could only fulfil the role of providing an evidential base for individual decisions under the policies of the NPPF alone. It has featured prominently in such decisions since, at both application and appeal stages.
- 3.4 The optimum place for any planning policy is as a bona-fide policy within the Local Plan, this being the document that will have statutory standing in future decision

making. The current production of the Local Plan is considered to be the correct opportunity to decide its content.

- 3.5 The Policy included in the Emerging Options Draft Plan at Policy EN10 is attached as Appendix B to this report. This has attracted substantial comment which is included as Appendix A (n.b. this is provided for ease of reference and is the same content and considered by Full Council on 28<sup>th</sup> July). One strand of these responses is that the inclusion of named landscape areas and their sensitivity to turbines of varying sizes and groupings ('clusters') is unnecessary. It is suggested that a criteria based policy is a preferred alternative approach. Other comments are that the words "Following consultation, it can be demonstrated that the planning impacts identified by affected local communities have been fully addressed and therefore the proposal has their backing" are important and reflect national policy so should therefore be included

### 3.6 National Policy Context

- 3.6.1 The NPPF explains that all communities have a responsibility to help increase the use and supply of green energy, but this does not mean that the need for renewable energy automatically overrides environmental protections and the planning concerns of local communities. It states that Local Plans are the correct vehicle to identify suitable areas and that was the purpose of the Landscape Sensitivity study (so far as wind energy is concerned).

- 3.6.2 Policy EN10 (as published in Emerging Options) closely follows the approach referred to in NPPG ([ID: 5-005-20150618](#)). NPPG:

- "In the case of wind turbines, a planning application should not be approved unless the proposed development site is an area identified as suitable for wind energy development in a Local or Neighbourhood Plan" and that
- "Suitable areas for wind energy development will need to have been allocated clearly in a Local or Neighbourhood Plan. Maps showing the wind resource as favourable to wind turbines or similar will not be sufficient"

This in turn means that we need a policy of this nature in order to fulfil our responsibilities to make a contribution to renewable energy by virtue of wind. It is considered that if the policy or table of locations within it were to be removed, the policy would not be in conformity with the NPPF/NPPG and as such could be found unsound at examination.

- 3.6.3 NPPG offers a range of advice setting out the detailed considerations that should be taken into account **when determining applications for wind turbines** ([ID: 5-014-20150618](#)). This lists a range of issues related to the specific location of turbines in respect of landscape impact, noise, cumulative effect, flicker etc. Within this guidance related to applications is the criteria regarding
- *the development site is in an area identified as suitable for wind energy development in a Local or Neighbourhood Plan; and*
  - *Following consultation, it can be demonstrated that the planning impacts identified by affected local communities have been fully addressed and therefore the proposal has their backing.*

These criteria both derive from the Written Ministerial Statement (WMS) of June 2015. This is considered to be of great significance to the content of the policy

because the Statement itself explains that the criteria can only be employed once a Local or Neighbourhood Plan has created a policy : *“In applying these new considerations, suitable areas for wind energy development **will need to have been allocated** clearly in a Local or Neighbourhood Plan”*.

### **3.7 Consideration by Working Group**

3.7.1 The Melton Local Plan Working Group considered the representations received alongside a review of the policy context and concluded that it was necessary to include the specific, named, landscape areas. However it considered there to be limited risk of including the text in relation to ‘community backing’ (see section 9 below) and as such resolved to continue to include this aspect. Finally, the Working Group considered that clarity would be achieved if the heights of turbines were expressed as ‘maximums’ (as opposed to ‘acceptable heights’) and that it should be clear that this relates to tip heights rather than hub heights. The Policy included in Appendix B to this report is amended to show these details.

## **4.0 POLICY AND CORPORATE IMPLICATIONS**

4.1 The Melton Local Plan Emerging Options provided the vehicle to engage with people on the preferred approach to addressing the issues and challenges which need to be dealt with through the Local Plan.

## **5.0 FINANCIAL AND OTHER RESOURCE IMPLICATIONS**

5.1 There are no significant unknown financial or resource implications arising from this report. The Local Plan will be an intensive exercise, which will have a significant resource implication. However this will be met through the existing budget provisions.

## **6.0 LEGAL IMPLICATIONS/POWERS**

6.1 Preparing a Local Plan in accordance with a Local Development Scheme and a Statement of Community Involvement are requirements of the Planning and Compulsory Purchase Act (as amended) 2004 and the Town and Country Planning Regulations 2012. Regulation 18 of the regulations requires the Council to invite comments about the Local Plan proposals and to take into account any representation made in response to the consultation when preparing the Local Plan. The Emerging Options Draft Local Plan consultation, together with this report of responses fulfils the requirements of Regulation 18 of the Town and Country Planning Regulations 2012.

6.2 The detailed review and consideration of representations about the Emerging Options should also help demonstrate to a Planning Inspector how the Council has sought to engage the community in the development of the plan and may reduce the risk of the plan being challenged at a later date.

## **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 The Emerging Options Draft Local Plan was a consultation document and not a strategy or policy. For these reasons, as a standalone document it will have little impact upon Equalities. The Submission version that will be influenced by the consultation will however require an Equalities Assessment.

## 9.0 RISKS

9.1

<b>L I K E L I H O O D</b>	<b>A</b>	<b>Very High</b>				
	<b>B</b>	<b>High</b>				
	<b>C</b>	<b>Significant</b>		2		
	<b>D</b>	<b>Low</b>				
	<b>E</b>	<b>Very Low</b>				
	<b>F</b>	<b>Almost Impossible</b>		1		
			<b>Negligible 1</b>	<b>Marginal 2</b>	<b>Critical 3</b>	<b>Catastrophic 4</b>

**IMPACT**

<b>Risk No</b>	<b>Risk Description</b>
1	The wording included is challenged and rejected at examination
2	The resultant changes result in further representation

## 10.0 CLIMATE CHANGE

10.1 There are no direct climate change issues arising from this report.

## 11.0 CONSULTATION

11.1 The Submission Version of the Local Plan will be subject to a statutory 6 week consultation in accordance with the Town and Country Planning Regulations 2012.

## 12.0 WARDS AFFECTED

12.1 All Wards are affected

Contact Officer J Worley, Head of Regulatory Services

Date: 19 August 2016

Appendices : Appendix A : Representations received to Chapter 7

Appendix B: Policy EN10 with amendments shown

Background Papers: MELTON LOCAL PLAN (EMERGING OPTIONS)