

Wind Turbines Supplementary Planning Document and Emerging Policy 2013



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Introduction and scope

This Supplementary Planning Document (SPD) and emerging policy has been produced as a result of the judicial review of the 2012 Wind Turbines Supplementary Planning Document and Emerging Policy, held in February and March 2013. It refers to the relevant parts of the 2012 SPD which were not in the judgment found to be in conflict with the 2005 Local Plan policy D5. Nevertheless, the judge decided to quash the whole of the 2012 SPD.

The additional guidance is considered necessary due to an increase in the number of submitted and anticipated wind farm applications as well as the increase in the scale of wind turbines since policy D5 of the Local Plan (2005) was written.

The issue was first raised by parish councillors, who requested that a review of the Local Plan policy D5, *Renewable Energy*, be undertaken, primarily with the view that the specified 350m minimum separation distance for wind turbines be increased. A review was requested because the size of wind turbines has increased significantly since publication of local and national policy. At the Development Control Committee meeting on 13 October 2011, a range of concerns were raised and reasons given for the desire for an increased minimum separation distance. The primary planning related concerns raised were residential amenity, noise, health and safety.

After that a new Wind Turbines Supplementary Planning Document and Emerging Policy was adopted by the Council on 24 July 2012. Following the decision to adopt this document a legal challenge was made by RWE Npower Renewables Ltd. The case was heard in the High Court on 28 February and 1 March by Deputy High Court Judge John Howell QC.

In his judgment John Howell QC held that within the Wind Turbines Supplementary Planning Document and Emerging Policy (the "Wind SPD"), section 2 of the Wind SPD Emerging Policy was in conflict with the policy D5 in the 2005 Adopted Local Plan in respect of the separation distance from dwellings. However he also concluded that the claimant had not shown that sections 4 to 6 of the 2012 Wind SPD were in conflict with the 2005 Local Plan.

The principal objectives of the wind turbines SPD and policy are to:

1) protect public safety from any unintended impacts of wind turbine developments and

2) clarify the approach for assessing individual planning applications for a specific set of circumstances i.e. applying separation distances from bridleways and footpaths

It is important to note that this document has a limited focus; it does not provide a comprehensive guide on all of the issues to be considered in determining applications for large scale wind turbine development. Whilst this document relates to large scale¹ wind turbines that are generally constructed as part of a wind farm; it does recognise the potential for smaller non domestic scale wind turbine development.

This document concludes that the wind turbine separation distance in policy D5 of the Local Plan (2005) should be clarified with regard to the minimum distance from bridleways, public footpaths and for public safety. Consequently it relates to Local Plan policies T1, T3 and L6. The distances are set out in an emerging policy at the end of the document. However, such proposals should continue to be considered on their merits. For example, appropriate separation distances may also be influenced by other factors such as topography and landscaping, as set out in the emerging policy. Other constraints will continue to be considered alongside this emerging policy.

The document will be used as a material consideration in assessing wind turbine applications. This is an emerging position until a statutory review of the policy takes place as part of the full review of all the development management policies in the adopted Local Plan (2005), which began in 2013.

More information is provided in the evidence report accompanying this SPD.

¹ Commercial installations will have approximate power output of 50kW or more

National, regional and local policy

The government actively promotes and supports renewable energy developments. As part of EU-wide action to increase the use of renewable energy, the UK government has committed to generating 15 percent of energy from renewable sources by 2020 (2009 European Renewable Energy Directive). This will contribute towards the UK's 2008 Climate Change Act target to reduce green house gas emissions by 34%, compared to 1990 levels, by 2020 and 80 percent by 2050. Renewable energy production from wind turbines will play an important role in contributing towards achieving these targets. National planning policy on renewable energy development takes a very positive stance and also makes clear that local authorities must take the same positive approach towards renewable and low-carbon energy developments.

Planning policy in the National Planning Policy Framework (March 2012) states "Planning plays a key role in...supporting the delivery of renewable and low carbon energy and associated infrastructure. This is central to the economic, social and environmental dimensions of sustainable development." (para 93). It goes onto state "To help increase the use and supply of renewable and low carbon energy, local planning authorities should recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources." (para 97).

The NPPF also states that: "Local planning authorities should:

- have a positive strategy to promote energy from renewable and low carbon sources;
- design their policies to maximise renewable and low carbon energy development while ensuring that adverse impacts are addressed satisfactorily, including cumulative impacts;
- consider identifying suitable areas for renewable and low carbon energy sources" (para 97)

A footnote to the NPPF para 97 refers to the National Policy Statement for Renewable Energy (EN3) and to the Overarching National Policy Statement for Energy Infrastructure (EN 1) published in July 2011. Allied to these Statements, are the UK Renewable Energy Roadmap (July 2011, DECC) and the Roadmap Update (2012). The documents, amongst other things, highlight the variety of different sources of renewable energy. Also the 2012 Update identifies that electricity demand is likely to increase by between 30% and 100% by 2050. This is because heating, transport and industrial processes will need to increasingly be electrified.

The NPPF also states that:

“When determining planning applications, local planning authorities should: approve the application if its impacts are (or can be made) acceptable.” (para 98)

At the time of consulting on the draft SPD the Planning Policy Statement 22 (Renewable Energy),-Companion Guide (December 2004), was revoked and replaced by the new Planning Practice Guidance on Renewable and Low Carbon Energy (July 2013) - PPG. With regard to wind turbines developments the PPG states that “Safety may be an issue in certain circumstances, but risks can often be mitigated through appropriate siting and consultation with affected bodies” (para 31).

The Guidance also states that: “*Local planning authorities should not rule out otherwise acceptable renewable energy developments through inflexible rules on buffer zones or separation distances. Other than when dealing with set back distances for safety, distance of itself does not necessarily determine whether the impact of a proposal is unacceptable. Distance plays a part, but so does the local context including factors such as topography, the local environment and near-by land uses.*” (para 16).

The PPG (para 14) confirms that policies based on clear criteria can be useful when they are expressed positively (i.e. that proposals will be accepted where the impact is or can be made acceptable. The PPG also states that when thinking about criteria for renewable energy projects the National Policy Statements provide a useful starting point.

The Department of Energy and Climate Change website (December 2011)² states that “we need to move from finite, high-carbon fossil fuels to clean, secure energy. No individual technology will provide the silver bullet – our energy mix will have to become increasingly diverse. As part of that mix, onshore wind will have an important role to play”. It goes on to say that “onshore wind is one of the more cost-effective and established renewable technologies. Studies indicate that the UK has the best wind resource in Europe”.

Overall, given the speed of progress in wind energy technology and the age of local and national policy covering wind turbine developments, it is considered appropriate to introduce some additional, up to date, guidance relating to wind turbine proposals in Milton Keynes, in order to help protect public safety. The best way of protecting public safety is to review the separation distances between turbines and public rights of way.

² http://www.decc.gov.uk/en/content/cms/meeting_energy/wind/onshore/onshore.aspx

Policy D5 of the adopted Milton Keynes Local Plan states:

RENEWABLE ENERGY

POLICY D5

Planning permission will be granted for proposals to develop renewable energy resources unless there would be:

- i) significant harm to the amenity of residential areas, due to noise, traffic, pollution or odour;
- ii) significant harm to a wildlife species or habitat;
- iii) unacceptable visual impact on the landscape.

Wind turbines should, in addition, avoid unacceptable shadow flicker and electro-magnetic interference and be sited at least 350m from any dwellings.

Policy D1 of the adopted Milton Keynes Local Plan states:

IMPACT OF DEVELOPMENT PROPOSALS ON LOCALITY

POLICY D1

Planning permission will be refused for development that would be harmful for any of the following reasons:

- i) Additional traffic generation.....;
- ii) Inadequate drainage.....;
- iii) An unacceptable visual intrusion or loss of privacy, sunlight and daylight
- iv) Unacceptable pollution by noise, smell, light or other emission to air, water or land.....

Policies T1,T3 and L6 state:

THE TRANSPORT USER HIERARCHY

POLICY T1

Development proposals should meet the needs of transport users in the following order of priority:

- i) Pedestrians and those with impaired mobility
- ii) Cyclists;
- iii) Users of public transport and taxis and motorcyclists
- iv) Others

PEDESTRIANS AND CYCLISTS

POLICY T3

Development proposals must be designed to meet the needs of pedestrians and cyclists. In particular:

- i) The layout of the external environment, including links to adjoining areas should provide convenient, direct, safe, secure and understandable pedestrian and cycle routes that are not isolated from other transport routes;
- ii) The needs of cyclists should be taken into account in traffic calming schemes;
- iii) Locations that are a deterrent to pedestrians and cyclists should be improved, including crossing points at roads
- iv) The existing redway, footway and right of way network should be retained, improved and extended;
- v) Cycle parking should be provided that is conveniently sited, secure and sufficient to meet the Council's parking standards, together with showers and changing facilities.

HORSE RELATED DEVELOPMENT

POLICY L6

Planning permission will be granted for horse related development in the open countryside and Linear Parks providing it is compatible with the policy guidance in Appendix L6.

Milton Keynes Council is determined to drive forward the effort to reduce carbon emissions. The Council's Low Carbon Living Strategy (2010) has an ambition to place Milton Keynes at the forefront of low carbon living, nationally and internationally. The Council has committed to reducing carbon emission by at least 20 percent by 2020. The development of renewable energy will play a vital role in reaching this target and fulfilling the Council's ambition. The Low Carbon Action Plan (2010) states that Milton Keynes Council should use the planning system to encourage the provision of renewable energy (page 7).

Advice on separation distances for safety

In terms of safety in general, the now revoked PPS22 Companion Guide states that “properly designed and maintained wind turbines are a safe technology” it goes on to say that “there has been no example of injury to a member of the public” (the document was published in 2004, so it is possible that this could have changed since then). With regard to buildings the PPG considers that fall over distance (i.e. the height of the turbine to the tip of the blade) plus 10% is often used as a safe separation distance. This is often less than the minimum desirable distance between wind turbines and occupied buildings calculated on the basis of expected noise levels and due to visual impact” (para 31). Evidence has been provided to the Council of accidents at one wind farm in Scotland, see the evidence paper.

The PPG also refers to the Highways Agency Spatial Planning Note (SP12/09) for siting wind turbines safely in relation to the strategic road network. It considers that a setback of the height of the turbine +10% is appropriate for small scale installations (up to 50kW); and setback of height +50metres for commercial operation.

The revoked PPS22 Companion Guide refers to the British Horse Society (BHS) and its guidance which suggests 200m exclusion zones around bridleways to avoid wind turbines frightening horses. The Companion Guide concludes that whilst this separation distance “could be deemed desirable, it is not a statutory requirement, and some negotiation should be undertaken if it is difficult to achieve this.” Also the new PPG (para 13) highlights that discussions with developers and industry experts can help to identify the siting requirements and likely impacts of technologies.

The British Horse Society has subsequently revised its guidance and the advice issued in 2013³ states that “as a starting point when assessing a site and its potential layout, a separation distance of four times the overall height should be the target for National Trails and Ride UK routes”. The reason for this being that, these routes are likely to be used by “equestrians unfamiliar with turbines”. It goes on to state that there should be “a distance of three times overall height from all other routes, including roads, with the 200m recommended in the Technical Annex – Wind to NPPF being seen as the minimum, where it is shown in a particular case that this would be acceptable. The negotiation process recommended in NPPF should indicate whether, in the particular circumstances of each site, these guidelines can be relaxed or need strengthening to minimise or eliminate the potential difficulties. ”

³ *Advice on Wind Turbines* (The British Horse Society, 2013). Available at: <http://www.bhs.org.uk/~media/BHS/Files/PDF%20Documents/Access%20leaflets/Wind%20Farms%20Leaflet.ashx>

The BHS advice also recommends that where separation distances cannot be achieved, the Society will expect the developer to demonstrate:

- Details of an alternative route for use by equestrians whose horses will not use the existing route because of the closeness of the turbines to the road or right of way, even if this has to be created over neighbouring land
- Details of the provision of funds to improve other rights of way; or to create new routes in the locality
- Provision of facilities for allowing horses to become accustomed to turbines in safety such as familiarisation days with controlled turbine movement

While there are not at present any National Trail or Ride UK routes in Milton Keynes there are a number of long distance routes such as the Midshires Way or Swans Way that run through the Borough. In respect of such routes the BHS advises that to have a separation distance of four times the turbine height.

In terms of public rights of way, the revoked PPS22 Companion Guide states “there is no statutory separation between a wind turbine and a public right of way. Often, fall over distance is considered an acceptable separation, and the minimum distance is often taken to be that the turbine blades should not be permitted to oversail a public right of way.” (paragraph 57) As noted in the Appeal Cases in the evidence paper, the inspector on appeal case APP/C3105/A/09/2116152 noted that the stability is rarely a planning consideration because other legislation, which gives adequate assurance over safety, covers this.

With regards to extreme cold weather, the revoked Companion Guide to PPS22 states that the build-up of ice on turbine blades is unlikely to present problems on the majority of sites in England. It states that “in those areas where icing of the blades does occur, fragments of ice might be released from the blades when the machine is started”. It goes on to say that “most turbines are fitted with vibration sensors which can detect any imbalance which might be caused by icing of the blades; in which case operation of machines with iced blades could be inhibited.” (Paragraph 79)

The British Pipeline Agency operate high pressure fuel lines in Milton Keynes and recommend a safety separation zone 1.5 times the height from the turbine.

Other constraints

There are many constraints that reduce opportunities for wind farm developments, the proximity of public rights of way is but one of these. Other planning constraints which may prevent wind farm developments in some areas include: proximity to residential dwellings, landscape character, visual impact, ecology, conservation areas / historic buildings, archaeology and cumulative impact, amongst others.

As set out in the EN3 (para 2.7.7) “In order for wind turbines to generate electricity efficiently, the turbines must be placed at a sufficient distance from one another within the site. The spacing will depend on the prevailing wind direction and the physical characteristics of the site. A spacing of six rotor diameters is normally required in the direction of the prevailing wind direction, and four rotor diameters perpendicular to this. However, this is a matter for the applicant.”

“In addition to wind turbines, the required infrastructure of a wind farm consists of adequate road access, on site-tracks, turbine foundations, crane hard standings, one or more anemometer masts, a construction compound, electrical cabling and an electrical sub-station and control building. Some of these features are permanent and others are required only in the construction phase and as such are temporary.”

Conclusion and Emerging Policy

Milton Keynes Council considers that it is appropriate to augment policy D5 of the Local Plan to provide additional guidance for distances of wind turbines from bridleways and public footpaths in regard to public safety.

In the same way that Scottish national policy aims to direct wind farms to the most appropriate locations (in terms of minimising impact on leisure amenity), it is deemed that the most appropriate way of introducing an approach to protect public safety without overly restricting the development of renewable energy, would be to encourage developers to identify sites in areas furthest away from rights of way.

It is considered appropriate to add the following emerging policy for wind turbines in the Borough.

EMERGING WIND TURBINE POLICY

1. Planning permission will be granted for proposals to develop wind turbine renewable energy sources, including wind turbines that act as a component of a more extensive development unless there would be:

- (a) significant harm to the amenity of residential areas, due to noise, traffic, pollution or odour;
- (b) significant harm to a wildlife species or habitat;
- (c) unacceptable visual impact on the landscape;
- (d) unacceptable shadow flicker and electro-magnetic interference

2. Safety Requirements for Minimum Distance from Bridleways

That, as a starting point when assessing a site and its potential layout,

- (a) a separation distance of four times the overall height of the wind turbine (to blade tip) should be the target for long distance routes that cross the Borough's boundary (e.g. the Three Shires Way or the North Bucks Way);
- (b) a separation distance of three times the overall height of the wind turbine to equestrian public rights of way⁴ or 200 metres, whichever is the greater.

The negotiation and discussion process recommended in the *NPPF* and the new *Planning practice guidance for renewable and low carbon energy* should indicate whether, in the particular circumstances of each site that could be influenced by other factors such as topography and landscaping, these guidelines can be relaxed or need strengthening to minimise or eliminate any perceived potential difficulties.

⁴ *Public Rights of Way including equestrian public rights of way are identified on the Definitive Map and Statement*

3. Safety Requirements for Minimum Distance from Public Footpaths

The expected minimum distance requirement is the fall-over distance i.e. height of the wind turbine (to blade tip) plus 10%⁵ to 25%.

4. Safety requirements

Wind turbines must be shut down:

- when they have become iced. They must only restart when ice has been cleared; or
- upon the request of any of the Emergency services, to allow access to the site(s) in the event of an accident or incident.

A separation distance of 1.5 times the height of the turbine from high pressure fuel lines shall apply.

⁵ *Study and development of a methodology for the estimation of the risk and harm to persons from wind turbines* (HSE, 2013) available at: <http://www.hse.gov.uk/research/rrpdf/rr968.pdf> . This study confirmed that public safety risks for fall over distance plus 10% of the overall height of the turbine are within acceptable tolerability acceptance criteria.

WIND FARM AND TURBINE ADVICE FOR APPLICANTS

In addition to the need for EIA, there is advice for prospective developers of Wind Farms in the Government publication:

Wind Energy and Aviation Interests - Interim Guidelines (DTI 2002)

<http://www.bwea.com/pdf/Wind-Energy-and-aviation-interim-guidelines.pdf>

This also includes a Pre-Application Pro-Forma which applicants can submit to assess their schemes before making a formal planning application.

Developers must also assess the impact of the proposed development on TV and radio reception. There is a tool on the BBC web site to do this:

<http://www.bbc.co.uk/reception/info/windfarms.shtml>

Developers should provide evidence that they have used the assessment tool and include the results with the planning application.

Advice for developments near trunk roads:

http://webarchive.nationalarchives.gov.uk/20120810121037/http://www.highways.gov.uk/business/documents/Wind_Turbines_SP_12-09.pdf

Wind Energy and the Historic Environment:

<http://www.english-heritage.org.uk/publications/wind-energy-and-the-historic-environment/>

Nature conservation advice:

<http://www.naturalengland.org.uk/ourwork/planningtransportlocalgov/spatialplanning/standingadvice/default.aspx>

<http://naturalengland.etraderstores.com/NaturalEnglandShop/TIN069>

<http://naturalengland.etraderstores.com/NaturalEnglandShop/TIN051>

Prospective developers and householders are advised to contact our Planning service for advice and information.

<http://www.milton-keynes.gov.uk/planning-and-building/apply-for-planning-permission/pre-application-advice>

Planning practice guidance for renewable and low carbon energy (2013)

<http://www.communities.gov.uk/publications/planningandbuilding/planningrenewable>

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Development Control Committee 13 October 2011, at

<http://cmis.milton-keynes.gov.uk/CmisWebPublic/Meeting.aspx?meetingID=9706>

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UK's 2008 Climate Change Act, at

<http://www.legislation.gov.uk/ukpga/2008/27/contents>

Planning Policy Statement (PPS) 1 supplement Planning and Climate Change (December 2007), at

<http://www.communities.gov.uk/publications/planningandbuilding/ppsclimatechange> cancelled by NPPF March 2012

National Policy Statements for energy infrastructure, at

<https://www.gov.uk/consents-and-planning-applications-for-national-energy-infrastructure-projects>

The South East Plan, at

<http://webarchive.nationalarchives.gov.uk/20100528142817/http://www.gos.gov.uk/gose/planning/regionalPlanning/815640/>

Milton Keynes Low Carbon Living Strategy, at

http://www.milton-keynes.gov.uk/mklowcarbonliving/documents/Low_Carbon_Living_Strategy_-_final.pdf

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Analysis of How Noise Impacts are Considered in the Determination of Wind Farm Planning Applications (April 2011), at

<http://www.decc.gov.uk/assets/decc/11/meeting-energy-demand/wind/2033-how-noise-impacts-are-considered.pdf>

Local Government Improvement and Development website (formally IDeA), section of this government website on wind turbines at

<http://www.idea.gov.uk/idk/core/page.do?pagelId=25290366>

Scottish national planning policy at

<http://www.scotland.gov.uk/Resource/Doc/300760/0093908.pdf>

Northern Ireland PPS28 Renewable Energy policy at

http://www.planningni.gov.uk/index/policy/policy_publications/planning_statements/planning_policy_statement_18_renewable_energy.pdf

UK Renewable Energy Roadmap July 2011

<http://www.decc.gov.uk/assets/decc/11/meeting-energy-demand/renewable-energy/2167-uk-renewable-energy-roadmap.pdf>

UK Renewable Energy Roadmap Update 2012

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/80246/11-02-13_UK_Renewable_Energy_Roadmap_Update_FINAL_DRAFT.pdf

Study and development of a methodology for the estimation of the risk and harm to persons from wind turbines (HSE, 2013) at:

<http://www.hse.gov.uk/research/rrpdf/rr968.pdf>

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