MILTON KEYNES COUNCIL

Draft 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 applications.

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 scale[1] 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 polices in the adopted Local Plan (2005), expected to begin in 2013.

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

[1] Large scale wind turbines produce up to and beyond 1.8 megawatts of power and / or are on towers 80 metres and above tall (Source based on definition in Encyclopaedia Britannica) The tower height is measured to the rotor tip in the emerging policy.

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 (July 2011) and allied to this, is the UK Renewable Energy Road Map (July 2011) DECC, which amongst other things highlights the variety of different sources of renewable energy. The Actions chapter recognises that in the 'low scenario' "growth slows after 2015 due to a limit on the number of sites available, growth of competing technologies and cumulative planning impacts".

At the time of writing the Planning Policy Statement 22 (Renewable Energy), Companion Guide (December 2004), remains extant although evidence claims that given the increase in the scale of turbines since 2004, this guidance has become dated.

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".

National Policy Statements on Energy should be considered for developments that are nationally significant. Environmental Impact Assessment Regulations set the requirements for determining the acceptability of wind turbine developments.

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……;I

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 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). It states that "The minimum desirable distance between wind turbines and occupied buildings calculated on the basis of expected noise levels and visual impact will often be greater than that necessary to meet safety requirements. 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". Evidence has been provided to the Council of accidents at one wind farm in Scotland, see the evidence paper.

With regards to bridleways, The British Horse Society released an advisory statement on wind turbines in April 2010 to replace its previous advice. The 2010 advice 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 Guidance to PPS 22 being seen as the minimum, where it is shown in a particular case that this would be acceptable".

In terms of public rights of way, the 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 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 PPS22 Companion Guide, wind farms occupy large areas:

“Wind turbines need to be positioned so that the distances between them are between 3-10 rotor diameters (about 180-600 metres for a wind farm using 60m diameter, 1.3MW wind turbines). This spacing represents a compromise between compactness, which minimises capital cost, and the need for adequate separations to lessen energy loss through wind shadowing from upstream machines. The required spacing will often be dependent on the prevailing wind direction.”

“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. **Requirements for Minimum Distance from Bridleways**

That, as a starting point when assessing a site and its potential layout, a separation distance of four times the overall height of the wind turbine should be the target for National Trails and Ride UK routes, or 200 metres, whichever is the greater. The negotiation process recommended in the Companion Guide to PPS 22 should indicate whether, in the particular circumstances of each site, these guidelines can be relaxed or need strengthening to minimise or eliminate any perceived potential difficulties.

3. **Requirements for Minimum Distance from Public Footpaths**

The minimum distance requirement is the fall-over distance (i.e. height of the wind turbine as defined in 2(e) above, plus 25%.

4. **Safety requirements**

Wind turbines must be shut down:

- when they have become iced. They must only restart when ice has been cleared as laid out in the recommendation in the Technical Annex of Planning Policy 22 and/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.

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://www.dft.gov.uk/ha/standards/tech_info/files/Wind_Turbines_SP_12-09.pdf

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/development-control/displayarticle.asp?ID=63484

http://www.bhs.org.uk/~/media/BHS/Files/PDF%20Documents/Access%20leaflets/Wind%20Farms%20Leaflet.ashx

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