



8 February 2015

Planning Application S13/2699 - Proposed Wind Farm at Temple Hill

### **Update to reVOLT Objection**

It is now nearly a year since, supported by 7 parish councils, we submitted a [detailed objection](#) to application [S13/2699](#). We have since commented on RWE's '[Further Information](#)' but have not deigned to respond to their further questioning of expert consultee opinion.

SKDC will be aware of recent developments, but we think it would be helpful to summarise some of these:

#### National Policy and Guidance

- The latest NPPF guidance on Conserving and Enhancing the Natural Environment ([Paragraph 123](#)) states that planning decisions should aim to:
  - *avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;*
  - *mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions.....*
  - *...identify and protect areas of tranquility which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason.*
- Paras 6 and 7 of the [NPPF Noise Section](#) have been updated. Para 7 notes that:

*Noise can constitute a statutory nuisance and is subject to the provisions of the Environmental Protection Act 1990 and other relevant law. This includes noise affecting balconies and gardens. When assessing whether a statutory nuisance exists, local authorities will consider a number of relevant factors, including the noise level, its duration, how often it occurs, the time of day or night that it occurs and the 'character of the locality'.*

#### Local Policy and Guidance

We were pleased to note the [Landscape and Visual Impact Assessment Review](#) prepared for Lincolnshire County Council by an independent expert mirrors our concerns about the methodology used in the applicant's Environmental Assessment. The report concludes that, in judging sensitivity, insufficient account was taken of key features of the landscape and that no account was taken of the value placed on the landscape by residents and visitors.

The [Hough on the Hill Neighbourhood Plan](#) has been approved by the Parish Council, SKDC and an independent inspector. Although still subject to a local referendum, the policies and guidance in this plan are now material planning considerations, along with the associated local [Landscape Character Assessment](#). The neighbouring parish of Stubton has also completed a [Neighbourhood Plan](#) which is at a similar stage and is thus also a material consideration. This application is counter to many of the aims and policies within these plans (see Appendix A).

We also note that Foston Parish now has a Landscape Character Assessment. The wind farm would also have a landscape/visual impact on that parish. Foston residents' view of the landscape character (from public consultation for the assessment) is that:

*... the main characteristics were those associated with the rural nature and agricultural uses; the openness and the fact that people enjoyed it being a working landscape. The main features described followed on from this with 'big skies' and views of the local parish church and those in the surrounding countryside being of note. The views to the escarpment and the river were also noted as key features within the surrounding area.*

*When discussing what residents most valued about the countryside of the parish, the findings fell into two main areas; the first and overriding other response was that the area is considered to be tranquil/peaceful and unspoilt....*

The assessment notes the number of high status houses along the escarpment towards Lincoln which were deliberately located to benefit from the views across the Trent Valley, as well as the importance of the local area to the wider setting of Belton Park.

The 2014 review of the [Hough on the Hill Conservation Area](#) Appraisal and Management Plan has now been adopted.

The importance of the setting of Loveden Hill was highlighted during development of the Hough on the Hill Neighbourhood Plan, leading to the Hill being designated as a Local Green Space (Policy HoH9). The effect of the subject application on the Hill was discussed in the [English Heritage advice](#):

*The importance of the surrounding landscape which forms the setting of this non-designated heritage asset means that the proposals have the potential to impact on the significance of Loveden Hill.*

*English Heritage would recommend that the effect of the application proposals on the significance of this non-designated heritage asset should be taken into account in determining the application.*

### Appeal Decisions

Although rejected by SKDC, [the application](#) for a large single turbine near Marston has been approved by a planning inspector. This should be included in the cumulative impact assessment.

A number of recent cases emphasise that considerable weight should be applied to the preservation of the settings of listed buildings and conservation areas (the NPPF defines setting as 'the surroundings in which a heritage asset is experienced'):

- At Barnwell Manor the key issue in the [Court of Appeal Judgment](#) was the statutory duty to have 'special regard to the desirability of preserving' listed buildings and their settings. Previous case law had established that 'preserving', in this context meant "doing no harm" and that there should be a "strong presumption" against granting planning permission for development which would result in harm.

The Court's decision makes it clear that the statutory duty applies to all listed buildings, including when the harm is judged to be less than substantial. It found that Parliament's intention in enacting the statutory duty was that decision-makers should give "considerable importance and weight to the desirability of preserving the setting of listed buildings when carrying out the balancing exercise."

It also rejected the Inspector's use of a 'reasonable observer' test (i.e. whether a reasonable observer would be able to distinguish the modern turbines from the heritage asset), as a decisive test for concluding that there would be less than substantial harm to the heritage assets.

- In the case of Forge Field [High Court Decision](#), it was found that a council had been wrong to grant permission for housing within the settings of two listed buildings and a

conservation area. The inspector discussed the need to prove that compelling reasons exist before setting aside the statutory presumption in favour of refusal where harm to the setting of a designated heritage asset is established:

*'...The presumption is a statutory one. It is not irrebuttable. It can be outweighed by material considerations powerful enough to do so. But an authority can only properly strike the right balance between harm to a heritage asset on the one hand and planning benefits on the other if it is conscious of the statutory presumption in favour of preservation, and if it demonstrably applies that presumption to the proposal it is considering'*

- The Asforby Wind Farm [Appeal Decision](#) (para 17) confirms that the harm to all listed buildings should be aggregated:

*The Secretary of State has also given careful consideration to the Inspector's findings regarding the other designated heritage assets that would be affected by the appeal scheme and which the Inspector considers would suffer from significant but less than substantial harm to their intrinsic value (IR90-104). While the Secretary of State accepts that each of these assets may well suffer from less than substantial harm if considered separately as being the only asset of any significance, he takes the view that, looking at the sum total of the impact on so many and varied assets, the harm caused is arguably greater than the sum of its parts.*

Also note the discussion about the length of time over which harm would be experienced (para 19) and the aggregated impact on residential amenity (para 21):

*Overall, the Secretary of State concludes that, due to the sheer number of properties affected and the impact of the proposal on the views from these properties (IR148-154), some weight should be given to the potential deterioration in living conditions in the overall planning balance.*

These judgments mean that where any harm, even 'less than substantial' harm, can occur to the settings of a listed building or conservation area the default position by the LPA should be a refusal. The onus is on the applicant to prove that sufficiently powerful material considerations necessary to justify that harm; including showing that alternative options have been explored and ruled out.

The DCLG Decision regarding [Hill Farm, Haverhsam](#) found that a wind farm could make a neighbouring property an unattractive place to live (contrary to an NPPF core principle) due to views from the rear garden, even where there was no direct view from inside the house,

#### Recent News & Research

In 2014 South Kesteven was voted one of [Britain's top 10 best rural places](#) to live and equal first among the districts with the lowest CO2 emissions per person.

In May 2014 the Government's chief climate adviser stated that the [UK has already approved enough wind turbines](#) to meet renewable energy targets.

In Jun 2014 the head of E.On joined those calling for a [halt to wind energy subsidies](#).

In Sep 2014, [in a written answer to an MP](#), the Secretary of State again confirmed that the 2020 target for onshore wind has already been met.

An Imperial College study found that [wind turbines catch fire ten times more often](#) than publicly reported.

[A recent report](#) on AM Noise confirmed that wind turbine blade tip vortices extend downwind up to 7 x rotor diameters (at 10m/s wind speed), implying that a minimum separation of 7 rotor diameters is required to prevent turbulent air stalling the blade of a downwind turbine and adding to AM noise. So for a 90m diameter rotor the minimum separation between turbines should be 630m. This means that the Temple Hill Wind Farm would be likely (with the planned turbine size) to cause inter-turbine noise problems; though the application does not specify a maximum rotor diameter, so the applicant could select a turbine with an even

larger rotor size. Although this issue isn't the only source of AM noise, it is at least predictable and avoidable. Were the application to be approved, the council should specify a maximum rotor diameter given the stated distance between turbines.

Another medical study has again shown that [low frequency wind farm noise is hazardous to health](#).

In Canada, the Royal Society of Medicine has issued '[Diagnostic Criteria for Adverse Health Effects in the Environs of Wind Turbines](#)' and a town has issued a [by-law](#) concerning wind farm noise, including low frequency noise.

Reports from Poland and Portugal, quoted in the British Medical Journal have shown some [effects of wind farm noise on animals](#).

A German study found that [noctule bat fatalities](#) caused by wind farms affect both local and migrating bat populations.

In Feb 2105 Energiekontor told local residents that they planned to submit a full application to SKDC for a [wind farm at Fulbeck Airfield](#) within weeks (an RWE manager was also present). This application must now be given full weight in considering cumulative impact on the local area.

### Conclusion

Although this update is by no means exhaustive; it is clear from the issues listed above that developments in policy and precedence over the past year reinforce the strong case for refusal of this application.

## Appendix A to Update to reVOLT Objection

### Hough on the Hill Neighbourhood Plan

The [Hough on the Hill Neighbourhood Plan](#) does not specifically address the prospect of industrial wind farms, but:

*Clear, locally formulated policies about the type, scale and design of any development will help everyone to have greater certainty about what is acceptable and appropriate here. There are also particular features of the Parish's distinctive landscape, historic fabric and rural character setting which require attention to ensure that what we value is protected into the future.*

The Plan describes the character of the villages and surrounding countryside and what it means to local people and to the many walkers, cyclists and horse riders who use the area.

As previously noted, the [Landscape Character Assessment](#) which supports the Neighbourhood Plan provides a much more detailed and focused assessment than the wider area studies used by the applicant. This document is also now a material consideration.

The policies in the Plan were developed to deliver the Aims and Objectives of the community. The policies have been approved by independent inspection, subject to minor amendments (included in the policies quoted below). The application should now be considered with respect to the entire Plan, but the following planning policies appear particularly relevant:

**HoH1:** *New development for 'appropriate uses' (see paras 105 and 106 above), which are in accordance with the other policies of this plan, will be supported where it can be demonstrated that opportunities to enrich the landscape and built environment setting of the Parish and its setting have been incorporated.*

*Locally important features and characteristics against which any development will be assessed are clearly defined in this Neighbourhood Plan and its evidence base and development which appropriately responds to these will be supported.*

**HoH2:** *New development should be sympathetic to the existing form, scale and character of its location and be appropriate to its rural context. Development should respond to the character of both the built and natural environment.*

*Materials and boundary treatments should be sympathetic to the character and landscape of the part of the Parish area in which they are proposed.*

*Development which has been designed in accordance with the Hough on the Hill Neighbourhood Plan Design Guidance will be supported.*

**HoH4:** *Development which would result in the loss of all or part of a heritage asset will not be supported unless it can be demonstrated that the public benefits would outweigh the harm caused.*

**HoH5:** *New development will be supported where it would improve, restore or maintain the fabric of a listed building.*

*Development which would have a negative or harmful impact on a listed building its curtilage or its setting will not be supported unless a clear justification is presented that there would be substantial public benefits which would outweigh the loss or harm to the building.*

**HoH6:** *New development will be supported where it would improve, restore or maintain a positive unlisted building/locally listed building or any other structure of local significance as identified within any other appropriately evidenced list<sup>1</sup>.*

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<sup>1</sup> Hough Grange, Gelston Grange and Brandon Lodge are amongst the unlisted buildings identified in the Plan as being of Architectural and Historic Interest.

*Development which would have a harmful impact on a building or structure of this type or its setting will not be supported unless a clear justification is presented which explains how the benefits would outweigh the loss or harm*

*HoH8: Development proposals for appropriate rural diversification within the Parish will be supported where;*

- It is in accordance with the Character and Built Environment and Green Spaces policies of the Neighbourhood Plan; and*
- It is located on previously developed land or sites containing existing agricultural buildings, or a clear justification is provided as to why the proposed site is more appropriate.*

*HoH10: New development must be appropriate to the character, natural, historic and cultural attributes and features of the Parish's landscape. Developments must respect the landscape character of the Parish and its settlements, as defined within the Hough on the Hill Landscape Character Assessment (October 2013) and incorporate features which contribute to the conservation, enhancement or restoration of these features.*

*In particular, new development should, wherever possible:*

- Maintain existing hedgerows, trees and woodland and encourage the planting of new trees and hedgerows. Where new trees are proposed, these should wherever possible, be appropriate disease resistant native species.*

*HoH11: Development will be supported where it would maintain the features which define the character and setting of the Parish which are set out within the Hough on the Hill Landscape Character Assessment (October 2013).*

*In particular, development which would impact on views into and out of the villages and hamlets as indicated on the Key Views Map (Figure 6, page 31) should demonstrate that these features have been sensitively and appropriately considered and incorporated and/or mitigated as necessary.*

*HoH12: New development for domestic-scale energy efficiency and/or energy production from renewable and low carbon sources will be supported where:*

- They relate to an existing or proposed property in the Parish;*
- They are subordinate in scale to the existing building; and*
- They are in accordance with the Character and Built Environment and Green Spaces policies of the Neighbourhood Plan, including the Neighbourhood Plan Design Guidance*

*HoH16: All new development must provide necessary and appropriate infrastructure and new facilities on site or contribute to off-site infrastructure and facilities as required either by means of planning condition, s.106 or use of Community Infrastructure Levy (CIL) as appropriate.*

*If a CIL approach is not adopted by South Kesteven District Council, necessary facilities and infrastructure will be secured by negotiation on a case by case basis.*

The wind farm application is clearly contrary to most, if not all, of these policies; as well as being contrary to the Design Guidance, specifically paragraphs a), h) and k).

### **Stubton Neighbourhood Plan**

The [Stubton Neighbourhood Plan](#) has also been approved by an independent inspector. The public consultation revealed similar concerns to those expressed in Hough on the Hill parish:

*When asked in the community engagement questionnaire, what they most valued about living in Stubton, the highest number of respondents recorded, 'peace, quiet and tranquillity'.*

*Respondents to the questionnaires specifically mentioned the open views of the countryside and 'big skies'. The rural setting and unspoilt nature of the landscape was also a significant feature of the local environment.*

The Plan also discusses the importance to the village of maintaining the aesthetic and economic viability of Stubton Hall.

The application should now be considered with respect to the entire Stubton Neighbourhood Plan, but the following planning policies (including minor amendment by the inspector) appear particularly relevant:

*BE1: New development for appropriate uses, which is in accordance with the other policies of this plan, will be supported where it can be demonstrated that opportunities to protect and enhance the landscape and/or built environment of Stubton and/or its setting have been considered and incorporated.*

*BE2: New development for appropriate uses should be sympathetic to the existing form, scale and character of Stubton Parish and be appropriate to its rural location, by ensuring compatibility with the character of the landscape as well as buildings. Materials and boundary treatments should be sympathetic to the character of Stubton.*

*NE1: New development must preserve the remoteness and tranquillity of Stubton Parish.*

*NE2: New development must be appropriate to the character, natural historic and cultural attributes and features of Stubton's landscape. Developments must respect and retain the landscape character of Stubton Parish and incorporate features which contribute to the conservation, enhancement or restoration of these features.*

*In particular, new development should, wherever possible:*

- Maintain existing hedgerows, trees and woodland and encourage the planting of new trees and hedgerows. Where new trees are proposed, these should wherever possible, be appropriate disease resistant and native species.*
- Protect and enhance the existing landscape character and the important features that define the character, setting and views of the Parish (as set out within the Stubton Landscape Character Assessment). In particular, development which would impact on views into and, where appropriate, out of the village should demonstrate that these features have been sensitively and appropriately considered and incorporated/mitigated as necessary.*