



Open Report on behalf of Andy Gutherson, Executive Director - Place

Report to:	Executive
Date:	05 December 2023
Subject:	Energy Infrastructure Position
Decision Reference:	I030807
Key decision?	No

Summary:

This report recognises that there are, and will continue to be, a large number of energy investment projects planned for Lincolnshire which will fall into the category of Nationally Significant Infrastructure Projects (NSIP) under the Planning Act 2008.

Although each major energy investment project decision is taken by the secretary of state, under advice from the Planning Inspectorate the Council has a role laid down in statute including the preparation of a Local Impact Report including any proposals for requirements or conditions to be included in any Development Consent Order.

The Report sets out proposals for the principles that should be applied by the Council in responding to any application that is made based on those elements of planning policy - notably the Lincolnshire Waste and Minerals Plan - which has a clear policy commitment to protect Lincolnshire's high quality agricultural land (Grades 1, 2 and 3a) along with other policies to protect the environment and the amenity for residents of the County.

The Report also sets out a proposed Framework for use by the Head of Planning in negotiating community benefits arising out of such projects.

Recommendation(s):

1. That the Executive approves the principles set out in section 2 of the Report using the existing Local Plan policy framework including the need to protect best and most versatile agricultural land to guide the Council's response to Nationally Significant Infrastructure Project proposals in Lincolnshire under the Planning Act 2008.
2. That the Executive approve the Framework set out in section 3 of the Report to guide the negotiation of community benefits from developers in connection with Nationally Significant Infrastructure Projects in Lincolnshire.
3. That the Executive re-affirms the position set out in the Council Position Statement in respect of on-shore wind farm proposals approved on 19 February 2021.

Alternatives Considered:

That the Council does not adopt principles based on existing planning policy to make representations to the Planning Inspectorate about NSIPs in Lincolnshire.

Although the Council is responding in its capacity as a County Council and not purely as a local planning authority in assessing the impact of proposals in its area, existing planning policy already reflects current impact assessments. Also the decisions of the Secretary of State will be making decisions on NSIPs within a planning context and responses set within a planning policy framework will be likely to carry increased influence within that decision-making process.

Recommendation 3 recognises that Council has already adopted a position statement on onshore wind farm proposals.

That the Council does not adopt a Framework for negotiating community benefits with developers of NSIPs in Lincolnshire.

This would leave the Council potentially negotiating benefits in an ad hoc manner without reference back to the priorities of the Council.

Reasons for Recommendation:

By adopting the recommendations, LCC will be able to make strong representations about Nationally Significant Infrastructure Projects which will be considered fully by the Secretary of State.

By adopting the proposed framework in the paper, LCC will be able to negotiate effectively for developer contributions in a way which ties back to Council priorities.

1. Background

Nationally Significant Infrastructure Projects (NSIP) are determined by Secretary of State following the management of the process by the Planning Inspectorate (PINS) and the legislative framework for these decisions are based in planning legislation, policy and law. Lincolnshire County Council is a consultee to any application, but the decision does not rest with the council so it is important that the representations made will stand up to effective scrutiny and challenge.

Section 1 - Onshore wind

On 5 September 2023 Government announced changes to how onshore windfarm proposals could be implemented with community support. These changes included:

- Streamlining the planning process;
- Broadening ways for identifying new sites;
- Speeding up the process for allocating new sites.

The Government have made these changes to address energy security and develop a greener economy. They have confirmed developments will proceed where there is community support.

Communities will be able to bring forward proposals for onshore wind – planning policy will be changed to make clear onshore wind developments can be identified in several ways rather than through local plans. This includes through Local Development Orders and Community Right to Build Orders.

The revisions to policy will state that councils should consider the views of the whole community, rather than a small minority, when considering a planning application. This includes addressing the planning impact of onshore wind projects as identified by local communities.

On 19 February 2021 Council passed a motion re-affirming the wind farm position statement that had been approved in 2013 with some changes:

“We reaffirm our support for the 2013 Wind Energy Position statement and accordingly amend it thus:

- a) The Council responds to all revising local plans and suggests that Paragraph 154(b) of the NPPF is made explicit in all local plans - that majority community support must be demonstrated before any development is passed;*
- b) As a council we object to all applications for on-shore wind turbines, other than for small scale (1-2 turbines), which are specifically linked to development and business sustainability issues and subject to them complying with all other planning policy considerations;*
- c) This council recognises the importance of our landscape and big open skies as a significant economic driver for our Visitor economy and for the role of the RAF in the County and this must be protected for future generations to enjoy and use.”*

The change in emphasis from Government on how sites will be identified and individual planning applications considered does not change the validity of this position from the Council.

In providing responses to any applications that are submitted, regard should be had to the health implications and therefore internal engagement will be made with public health colleagues in responding to proposals.

Section 2 – Responding to NSIPs

As referred to above the Council is a consultee in relation to NSIPs but not the decision-maker. NSIPs cover a range of potential developments including solar farms and other energy related infrastructure e.g. cable routes, pylons.

The Council has a formal role in the statutory process governing the consideration of NSIPs including responsibility for the development of a Local Impact Assessment and inputting into the terms of any Development Consent Order.

Existing Local Plan policies across Lincolnshire have been tested through the statutory processes for Local Plan production including an examination in public to ensure they meet the test of soundness. Local concerns and issues relating to the acceptability of NSIPs can be assessed against these policies and the stated objectives of the protection of Lincolnshire's key environmental, social, economic and community addressed.

It is proposed that a council position should be that the council believes that all new buildings – unless there are good reasons not to - should have solar panels and other measures as a matter of course. Solar panels should be installed as a priority on rooftops, car parks, and new builds rather than on agricultural land.

All new energy sources need to be connected to the grid, and this creates a risk. The proposed council position should be that the council's view is that any cabling required should be underground unless connecting to an already existing overhead line. New Grid infrastructure should be predicated on underground first, or on existing routes. The council's position should be that it does not support any new overhead pylon lines which impact on the county and its vitally important landscapes. The council should be prepared to explore with developers any new technologies such as smart grids which address the need for energy whilst being sensitive and suitable to the natural environment.

The Agricultural Land Classification (ALC) system classifies land into five grades with Grade 3 subdivided into 3a and 3b. Best and most versatile agricultural land is defined as Grades 1, 2 and 3a. Lincolnshire has a high proportion of best and most versatile agricultural land, which is the basis for its prosperous agricultural industry. The NPPF states that local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of higher quality.

This approach would enable the starting point for our considerations to be an objection to any proposals on Grade 1,2 and 3a land. Consideration could be given to the merits of limited direct development on Grade 3b land subject to the other policy based consideration. For example, ancillary development on Grade 3b land to support a scheme that is not being delivered on best and most versatile land may be appropriate and acceptable.

The available evidence confirms the strategic importance of the agricultural sector to Lincolnshire and to the UK's economy. The importance of the agriculture sector to the national economy is strong, but there are often conflicting figures used to demonstrate that strength. For the purposes of consistency the latest DEFRA Agricultural Survey (released July 2022) shows:

- Arable land makes up 84% of the total farmed area in Lincolnshire; 382,636 hectares. Nationally only 46% of farmed area is designated as arable.

- Of this, cereals dominate the total farmed land (272,250 hectares). The area of land farmed for cereals in Lincolnshire has increased by 10% over the past decade.
- Prime arable land is highly valuable, at £11,000 per acre
- Greater Lincolnshire plays a significant role in the food security of the nation, growing:
 - 11% of all wheat
 - 9% of all spring barley
 - 7% of all 'other' cereal crops
 - 12% of all potatoes
 - 18% of all sugar beet
 - 22% of all peas and beans
 - 26% of all other veg and salad; and 24.5% of all open grown veg

The Council should use the protection of agricultural land as a starting point for the consideration of the acceptability of NSIP proposals that includes significant land take. This can be cross referenced with the local environmental, landscape, historic and community impacts to ascertain if there is any justification to over-ride the loss of the agricultural land. The final consideration would then be to consider the cumulative impact arising from proposals recognising the potential significant impact of numerous developments within the same vicinity.

Section 3 - Seeking community benefits

Whilst objections may be made against proposals there is still the potential to seek to negotiate community benefit should a Development Consent Order (DCO) be granted by the relevant Secretary of State.

Set out below are some areas where community benefit could potentially be achieved from NSIPs in the Council's area. This would not preclude the council objecting to an application but the considerations outlined below would provide a framework for the Council to seek community benefit from those investments by identifying priority areas where the Council would seek community benefits and the issues which such community benefits would be designed to address.

It should be noted that analysis commissioned by the council demonstrates that current energy capacity throughout the county is stretched, and that any further housing or commercial growth could lead to problems with energy supply.

Energy and the environment

The council has agreed its Green Master Plan which describes the priorities to be followed in achieving the council's commitment to being net carbon zero by 2050. The Green Master Plan's third guiding principle is to take responsibility and pride - in particular causing no harm to the environment and where possible enhancing it. It should also be noted that the government's Environment Bill proposes a focus on "re-use" rather than "recycle" strategies which in turn could lead to reduced levels of household waste being processed by the Energy from Waste plant.

Nonetheless, it is expected that the type of major business who might be interested in relocating to places like Teal Park in North Hykeham are likely to seek clean energy solutions. Therefore, there is the possibility that heat from the Energy from Waste plant could be used to support businesses' clean energy credentials - this is likely to only be attractive to the biggest investors who are creating a new factory or leisure facility because of the high cost of retrofitting existing buildings which are using gas.

Lincolnshire has one of the highest number of anaerobic digestion plants in the country, as well as a biomass power station in Sleaford (plus a similar facility in neighbouring Brigg). As well as feeding the national grid, and in some cases like Hemswell providing the opportunity to supply power to local business networks, there is evidence that bio-fuel from anaerobic digestion can be used to power vehicles but the infrastructure is not there in terms of bio fuel stations to make such vehicles viable yet.

Energy and growth

Lincolnshire, like many other rural counties, suffers from having less utility infrastructure than in more populated areas. This is particularly the case in terms of energy, and there are notable examples of allocated employment land whose growth is constrained by a lack of power and in some cases this has led to businesses leaving the county with the obvious knock-on effect on jobs. Similarly, there are examples of residential developments which appear unviable due to a lack of energy, and whilst this hinders growth and housing availability the viability also affects the council's own ability to ask for s106 contributions from developers for roads, education, fire etc investment.

One other important aspect of energy and growth is that other providers of utility infrastructure - whether broadband, electric vehicle charging points, or flood prevention/water recycling - are highly dependent upon reliable sources of energy. The provision of energy to growth schemes is only part of the equation; the provision of energy to other utilities is also critical in achieving the council's ambitions.

Energy and the future (housing)

National policy requires a shift to decarbonised heat and transport networks across the UK. As a county we have particular challenges in terms of existing energy infrastructure. Limited gas networks will limit the future reach of hydrogen (potential to repurposes the gas grid). Many households are wedded to oil systems due to rurality. The current picture means that a higher proportion of homes in Lincolnshire are classed as being in fuel poverty (11.8%) compared to the national average (10.2). Electrification of heat networks will form a large part of the transition but the current energy balance and pricing structure means that the investment in electric based systems is not fiscally enticing at this juncture – even with grants. This problem is exacerbated in poor housing stock, which the statistics above demonstrate is prevalent in Lincolnshire, and it has been raised with government as a significant risk by the Association of Directors of Adult Care.

Energy and investment

The energy sector provides jobs and investment. Lincolnshire is bordered on 3 sides by corridors of energy generation: the Trent Valley, the Humber Bank and the Coast.

North and North East Lincolnshire Councils are part of The Energy Estuary which has a particular focus on benefitting from its huge petro-chemical industry and on capturing the carbon which is a byproduct of those industries. The area is undoubtedly a world leader, but research shows that supply chain and job opportunities in the area do not trickle down through the whole of the county. Nonetheless there could be an advantage to be gained from working collaboratively with the two councils on this subject.

Lincolnshire's own energy sector is not as strong as that of the Humber, but it is nonetheless important and it should be recognised that jobs in the energy sector are more productive, and better paid, than many in the national economy. The sector employs around 5700 people, is worth around £600m GVA, and forecasts growth of 5.5%. Lincolnshire's own specialism is in the manufacture of energy products/services but the county also has several power stations, including one which is mothballed at Sutton Bridge and two in Spalding, one of which is being promoted by government for international investment in battery storage. The sector provides significant opportunities for investment which in turn could provide high quality jobs; it is uncertain whether young people in Lincolnshire are aware of the opportunities in this sector and whether they can access the right advice/training.

Fuel Poverty

There is significant evidence of the levels of fuel poverty in parts of the County and the impact that this has on public health and quality of life for Lincolnshire residents.

In those communities directly affected by the impact of development proposals it would be legitimate to seek investment in the fabric of individual properties in respect of insulation and energy saving measures to help address these issues.

Using this framework would enable the Council to consider which community benefits to seek as part of negotiations with the promoters of NSIPs, and could enable the Council to link community benefit negotiations together to achieve a bigger and wider impact.

2. Legal Issues:

Equality Act 2010

Under section 149 of the Equality Act 2010, the Council must, in the exercise of its functions, have due regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act.
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.

- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The relevant protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.

Having due regard to the need to advance equality of opportunity involves having due regard, in particular, to the need to:

- Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic.
- Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it.
- Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to tackle prejudice, and promote understanding.

Compliance with the duties in section 149 may involve treating some persons more favourably than others.

The duty cannot be delegated and must be discharged by the decision-maker. To discharge the statutory duty the decision-maker must analyse all the relevant material with the specific statutory obligations in mind. If a risk of adverse impact is identified consideration must be given to measures to avoid that impact as part of the decision-making process.

This report makes recommendations which follow from the Council's Minerals and Waste local plan. A full equality impact assessment was carried out in the production of this local plan, and the findings of that EIA are relevant to the recommendations in this report

Joint Strategic Needs Assessment (JSNA) and the Joint Health and Wellbeing Strategy (JHWS)

The Council must have regard to the Joint Strategic Needs Assessment (JSNA) and the Joint Health and Wellbeing Strategy (JHWS) in coming to a decision.

The Joint Strategic Needs Assessment identified that access to affordable energy is one of the determinants of a community's health. In the framework for developer contributions this paper identifies that fuel poverty should be addressed as a potential financial

contribution from developments and therefore the recommendation directly addressed on of the priorities in the JSNA

Crime and Disorder

Under section 17 of the Crime and Disorder Act 1998, the Council must exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment), the misuse of drugs, alcohol and other substances in its area and re-offending in its area.

This paper makes recommendations relating to the council's position on planning applications, it does not make recommendations about the direct provision of a service. As such, the recommendations are neutral to crime and disorder.

3. Conclusion

In summary, this report recognises that decisions relating to Nationally Significant Infrastructure Projects will be taken at national level, but it proposes a set of positions that the council might take which are rooted in planning legislation and which will carry some weight with the Planning Inspectorate. It also proposes a framework by which the council can negotiate community benefits from any applications which The Planning Inspectorate might approve.

4. Legal Comments:

The Council has a statutory role to play as a consultee in the Nationally Significant Infrastructure process including to identify local impacts. Such developments also provide the opportunity to see community benefits.

Responding to such projects is an executive function and the Report proposes principles and a framework to be used in guiding the Council's responses.

The decision is consistent with the Policy Framework and within the remit of the Executive.

5. Resource Comments:

Accepting the recommendations within this report, should have no significant impact on the council's budget.

6. Consultation

a) Has Local Member Been Consulted?

n/a

b) Has Executive Councillor Been Consulted?

Yes

c) Scrutiny Comments

This report has not been considered by a scrutiny committee.

d) Risks and Impact Analysis

As detailed in the body of the report

7. Background Papers

The following background papers within Section 100D of the Local Government Act 1972 were used in the preparation of this report.

Background Paper	Where it can be viewed
Minutes of Council meeting dated 19 February 2021	https://lincolnshire.moderngov.co.uk/documents/g5729/Printed%20minutes%2019th-Feb-2021%2010.00%20Council.pdf?T=1

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