



Pre-Application Guidance for Developers for Wind Turbine Applications

Background

Consulting neighbours and the community on development proposals prior to a developer submitting a planning application has been seen as good practice for many years but until recently has not been a formal requirement.

The situation has now changed with the introduction of legislation for wind turbine developments that requires, in most cases, that applicants carry out consultation on developments prior to the formal submission of the planning application. This guidance document is intended to assist developers in planning how to carry out that consultation.

Wind turbine developments vary in scale and impact and the individual publicity requirements will also vary according to the specific circumstances of each development. Developers will however need to be clear about why they have chosen the method of publicity as if it is not compliant with the legislation a scheme could now be the subject of a judicial challenge for failure to comply with a statutory process. This includes a requirement to have regard to advice from the local planning authority.

Legislative Background

The requirement to carry out publicity is contained in section 61W of the Town and Country Planning Act 1990 ("the Act"). That primary legislation is supplemented by Regulations in the Town and Country Planning (Development Management Procedure) (England) Order 2010 as amended by the Town and Country Planning (Development Management Procedure and Section 62A Applications) (England) (Amendment) Order 2013.

The requirements for publicity apply to development comprising of either two turbines or any wind development over 15m high. For these applications a developer must:

- Publicised it in a manner that it is considered is likely to bring the proposed development to the attention of the majority of the persons who live at premises in the vicinity of the land
- State, as part of the application, how the publicity process has been undertaken and how they have complied with the legislation
- Provide details of the responses received
- State how they have had regard to the comments received as part of the consultation

The Act requires developers to have regard to the advice of the Local Planning Authority in complying with the duty to consult. Developers are legally therefore obliged to have regard to this practice guidance and if they deviate from it they should explain why they are doing so as part of their publicity statement which will accompany an application.

The publicity that is undertaken must itself contain the following minimum details:

- Details of how to contact the developer in order to be able to comment on the scheme or collaborate with the developer on its design
- Contain information on a timetable for the duration of the consultation

Time Period for Publicity

Legislation is in place requiring local planning authorities to publicise planning applications. This gives a minimum 21 days for members of the public to comment. It would be appropriate to follow national legislative good practice and for developers to give a minimum of 21 days for comments to be made. A longer timescale may be appropriate for larger and more complex applications.

In all cases there must be a clear timescale stated and an end date given for the cessation of the consultation.

Form of the Consultation

The requirement is to consult in a manner that brings the development to the attention of the majority of the persons who live in the vicinity. The optimum way of undertaking this is to write to individual addresses. An advert in a local paper is an option but this should be supplementary to and not instead of direct consultation.

A site notice is not appropriate and would not comply with the statutory requirements as it could not bring the application to the attention of the majority of residents in an area. This also applies to a newspaper advert.

Although not a statutory requirement it would be advisable of a developer to include the Town or Parish Council in the consultation. A full list of these is available on the Council's website at

http://www.pendle.gov.uk/info/723/parish_and_town_councils/179/parish_councils

Content of the Consultation

Modern technology means that there are different ways of allowing access to the documents supporting the scheme. The Council places details of planning applications on a website that allows public viewing at any time. This would be an appropriate way of publicising the development and allowing residents access to full details of the scheme. Providing a facility to comment online would be an appropriate method of allowing feedback. It would also assist in having an audit trail for comments.

An alternative to this would be to supply all householders with copies of the plans and supporting documents directly.

A third option is to place the documents in a location in the vicinity of the site that would allow members of the public to view them. If this is the chosen method the venue must be open to the public during all hours of the working day (9am to 5pm) and include Saturdays.

Comments should be allowed to be submitted using email and writing letters.

Who to Consult

The legislation requires that the development be publicised so that the majority of people living "in the vicinity" have knowledge of it. What constitutes the "vicinity" of an application site will depend on the type and nature of the development.

For example a wind turbine development which consisted of 20 turbines each above 100m high would affect a larger area than a single 16m high turbine. Developers should review their visual assessments to assess the area that would be affected by their scheme and determine from that the vicinity of the site that will be affected.

As a minimum a small scale turbine up to 20m high should consult all those within 500m.

A small/medium development which has turbines up to around 50m high should consult all properties within a 1km radius.

For schemes with large turbines, or medium sized turbines with 3 or more turbines proposed, wider publicity should be undertaken. A minimum of all properties with 3km should be consulted in these cases.

Applicants are advised to discuss the requirements with the Local Planning Authority prior to the pre-application consultation being commenced.