



HECKINGTON FEN WIND TURBINE ACTION GROUP  
CHESTNUT HOUSE, MARYLAND BANK  
AMBER HILL  
BOSTON  
LINCOLNSHIRE  
[PE20 3RW](#)

Tel: 01205 290333

Email: [reply.heckoff@outlook.com](mailto:reply.heckoff@outlook.com)

For the attention of :  
Rt Hon Greg Clark  
Secretary of State  
Department of Business & Industrial Strategy  
3 Whitehall Place  
LONDON SW1A 2AW

27th June 2017

Contact Keith Welford Case Manager  
National Infrastructure Consents  
email: [keith.welford@beis.gov.uk](mailto:keith.welford@beis.gov.uk)

Ref: Heckington Fen Wind Farm Variation of Consent Application ref: 4038P019901-  
Third Round of Consultations - response to Ecotricity's submission dated 23rd May 2017.

Dear Mr Welford,

The local communities having carefully considered Ecotricity's latest submission to yourselves, consider that it is imperative we respond in a forthright manner, as the comments made within this letter have raised even greater concerns, especially in the light of recent published comments made by Ecotricity's CEO and owner Mr D Vince, with regards to their proposed amendment to the Radar Mitigation Scheme Condition 5. (RMS)

However before dealing with RMS issue, we wish to register our dissatisfaction in regards to the manner and timing in which this letter was published, along with other accompanying documents on Ecotricity's Heckington Fen Wind Farm web site.

You are aware that Ecotricity's response letter is dated 23rd May 2017, you are also aware that you were contacted by Heck Off by email on the 19th June 2017, as a follow up to an earlier telephone call on behalf of Heck Off, requesting that any further submissions by Ecotricity would be made available to maintain openness and transparency.

It appears that Ecotricity reacted to this telephone call as these documents were published shortly after the 19th June, but with no notification by DBEIS and indeed these appear not to have been circulated to any of the Statutory Consultees.

We would have been extremely disappointed if we had not had sight of this document ahead of a decision being made by DBEIS, particularly as Ecotricity stated in their letter that they were; "*not intending to make any further substantive comments on the representations made nor to provide any additional information with regards to the Variation Application*".

Radar Mitigation Scheme Condition.

Heck Off note that Ecotricity have made the following comment regarding the Radar Mitigation Scheme, which is basically a reiteration of their stated position.

*"In their letter dated 20th May 2015 to DECC, the Ministry of Defence state: "In respect of the variation proposed to Condition 5, it should be noted the MOD has commenced discussions with Ecotricity (Next Generation) Limited regarding radar mitigation and it is understood that all parties are in agreement regarding the requirement for mitigation. It is on this basis that the MOD has no objection to the proposed variation to Condition 5." The MoD has not altered their stance of no objection to the proposed variation of Condition 5".*

*"As previously stated (in Ecotricity's letter of 18 October 2016), Ecotricity acknowledge that conceptually there is a potential risk of components of the development associated with the wind park scheme being left as stranded kit should development have commenced and a radar mitigation solution not be forthcoming. A reinstatement condition could be applied to any consent for the Variation Application should BEIS consider it necessary to do so".*

However it is abundantly clear that Ecotricity are still misappropriating MOD's position as already stated by Heck Off in our 3rd round of consultation submission, dated 31st January 2017. We reiterate:

*We wish to make our point quite clear, the fact is just because MOD have not objected to the amendment of the wording of condition 5, can this in anyway be relied upon by Ecotricity to justify consent of their proposed amendment.*

***By making this assertion we contest, Ecotricity are misrepresenting MOD's position in order to favour consent. This is inappropriate and we also see this purely and simply as misrepresenting the facts to seek to gain a planning condition advantage and undermine the initial intention of the planning condition, i.e., to protect the local communities from adverse impacts from aborted works, in the event that a tried and tested radar mitigation scheme is not forthcoming, nor can be agreed to the full satisfaction of all parties.***

Heck Off consider that a suggested reinstatement condition by Ecotricity is simply unacceptable and is again just a means of subverting the protection that was intended in the first instance when Inspector Major recommended Condition 5, the RMS Condition.

Ecotricity have in fact just simply ignored the significant concern raised by North Kesteven in their consultation response dated 24th January 2017 where they stated;

*"The comments in response by Ecotricity that only works to agricultural access tracks was anticipated did not reassure the Council; indeed, if the extent of the applicants intentions is as limited as suggested, the variation they seek exceeds what is reasonably required. Moreover the Council would remind the Secretary of State that in the event that the condition is varied to reduce the burden upon the developer to secure an approved RMS before any works commence, **a lawful implementation of the consent through works to an agricultural access road will in effect secure the consent and will potentially leave residents with years of uncertainty over the development pending the approval of the RMS. Such uncertainty could act to blight the amenity that local residents might reasonably expect to enjoy from their properties.***

Furthermore and most significantly Mr Dale Vince has a published statement in which he clearly confirms the following:

*" Ecotricity could "find a way to build" the consented 22-turbine Heckington Fen in Lincolnshire on a post subsidy basis **but that could be several years away due to a radar issue affecting RAF Coningsby.** Vince said it is a particularly sensitive spot due to some existing wind farms that are thought to be causing interference with Ministry of Defence air traffic installations.*

***"They are adamant that there is no current solution but they think it may be possible to trial new technologies in three to five years' time.***

This published statement by Ecotricity and admission that this applicant has absolutely no regards or concerns for the years of uncertainty caused by planning blight, they are openly prepared to inflict on the local communities.

Heck Off in our submission dated 15th March 2016 stated:

*We also wish to state that after carefully considering the evidence we have available, we are totally opposed to Ecotricity's proposed variation to amend Condition 5 Radar Mitigation to change the wording of the condition from 'no development shall take place' ..to 'no construction of a turbine.'*

*We have firm evidence that all wind turbine developers including Ecotricity, have had access to information provided by MOD that the issues concerning radar mitigation to local RAF operational bases has been available since 2002, when this was first identified as a serious concern. Indeed Ecotricity acknowledged this very issue in their application letter submitted to NKDC and DECC dated 15 December 2009;*

*Ref: PARTICULARS OF PROPOSED DEVELOPMENT AND REPRESENTATIONS - OBJECTIONS*

*@ Para 2 'In response to consultation MOD Safeguarding has objected to the proposal on the grounds that returns from the turbines to primary surveillance radar will have an adverse impact on operations and safeguarding in the vicinity of the wind farm'.*

*Ecotricity submitted their application in the full knowledge that in effect their wind farm development and planning application, without an agreed and fully functional tested operational radar mitigation system in place at that time, **was from the outset an unsustainable development.***

We now have an open admission recently published in June 2017 by Ecotricity that MOD are:

*" **several years away due to a radar issue affecting RAF Coningsby.** Vince said it is a particularly sensitive spot due to some existing wind farms that are thought to be causing interference with Ministry of Defence air traffic installations. and that it could be another three to five years away **"They are adamant that there is no current solution but they think it may be possible to trial new technologies in three to five years' time.***

Heck Off has already provided substantive evidence that MOD stated that Wind Turbine Radar Mitigation was a serious issue back in 2005, particularly arising from the close proximity to RAF Coningsby, yet Ecotricity knowingly pursued a planning application from before 2009 in the clear knowledge that MOD had raised an objection, this was proposed to be dealt with under Condition

5, yet we have Ecotricity in effect still seeking to gain '*an open door to sometime in the future*' enabling them to proceed.

As stated in our letter dated 15th March 2016, Ecotricity have in effect pursued an 'unsustainable' application in the full knowledge that the local communities would be the ones to suffer the unacceptable consequences.

It is critical that the Secretary of State considers the full extent of the ensuing time scales; MOD raised this issue in 2005, Ecotricity submitted their application in 2009, they applied for their variation in 2015, we now have an admission that it could be a further 5 years from June 2017 even before any trials may commence, taking us into at least June 2022, a combined period heading towards 18 years without any end in sight, meanwhile the local communities are left with uncertainty and planning blight.

This state of affairs is totally unacceptable and we call upon the Secretary of State to refuse the application to vary condition 5 forthwith.

Whilst writing, we also wish to draw attention to an updated submission re the Written Ministerial Statement, WMS, which is an ongoing material consideration from the opening of the 2nd round of consultation in January 2016.

We note that in the recent Housing White Paper- "*Fixing the Broken Housing Market*" where at paragraph A.142 it advises that "*the Government's Written Ministerial Statement of 18th June 2015 relating to onshore wind energy will be incorporated in to the NPPF*".

In addition to this we wish to refer the Secretary of State to the outcome of Case No APP/B3030/W115/3003130 APPEAL BY WIND PROSPECT LTD AT AGRICULTURAL LAND WEST OF NEWARK ROAD, HAWTON, NEWARK-ONTRENT, NOTTINGHAMSHIRE, HG24 3RJ.

In this particular case Inspector Graham Dudley BA(Hons) Arch Dip Cons AA RIBA FRICS, in his Recommendation to the Secretary of State DCLG stated @ Para 241. "*It is recommended that the appeal be allowed and planning permission granted for the construction and operation of a wind farm consisting of four 130m high to blade tip wind turbines.*"

However the Secretary of State in his decision letter dated 30 June 2016, dismissed this appeal by stating @ Para 3. "*The Inspector recommended that the appeal be allowed and planning permission granted subject to conditions. For the reasons given below, the Secretary of State disagrees with the Inspector's recommendation*".

The Secretary of State states @ Para 6. "*Other material considerations which the Secretary of State has taken into account include: the National Planning Policy Framework, March 2012 ('the Framework'); the National Planning Practice Guidance ('the guidance') and the Written Ministerial Statement ('WMS') on local planning of 18 June 2015. This is the planning policy and guidance referred to by the Inspector in IR227. Given its relevance to this case, the Secretary of State attaches substantial weight to the WMS as the most recent expression of government planning policy for onshore wind development*".

At Para 8 The Secretary of State states;

*Main Issues 8. The Secretary of State agrees with the Inspector that the main issue in this case is that set out at IR136. However, the Secretary of State reaches a different conclusion on that issue.*

*The Secretary of State also considers that his Written Ministerial Statement on local planning is a significant issue.*

At Para 18 the Secretary of State notes;

### **Written Ministerial Statement**

*18. "The Secretary of State also takes account of, the WMS of 18 June 2015. As the appeal proposal predates the WMS and the development plan does not identify suitable sites, the transitional provision within the WMS is applicable. This states that 'local planning authorities can find the proposal acceptable if, following consultation, they are satisfied it has addressed the planning impacts identified by affected local communities and therefore has their backing'".*

*19. "The Secretary of State notes that affected local communities have raised concerns in relation to heritage assets, character, appearance, shadow flicker, noise and visual amenity".*

Likewise the local communities case at Heckington Fen also reflects these concerns whilst recognising at the same time, there are specific significant local issues pertaining to Heckington Fen, as indeed there are at the Wind Prospect wind farm application site at HAWTON, NEWARK-ON -TRENT.

What is of particular note in the Hawton case is that the Inspector @ Para's 229 & 230 discusses the relevance of and weight in the planning balance to be attributed, as far as this is indeed possible, against the legitimate concerns of the affected local communities.

We also wish to draw attention to a subsequent Order by the Honourable Mr Justice Holgate refusing permission for the Claimant Wind Prospects Ltd, to pursue a claim for a planning statutory review v Secretary of State Communities and Local Government & Newark and Sherwood District Council date 12th December 2016.

In his Reasons, The Honourable Mr Justice Holgate states (1) "*The claim is unarguable*" essentially for the reasons set out in D1's AOS" and that (2) in essence, the "*claim proposes a collateral damage to the policy which is long out of time,*" given that the WMS was issued on the 18th June 2015.

At Reason (3) Mr Justice Holgate concludes In any event, "*the complaint that the WMS is in part unlawful, or that an immaterial consideration has been taken into account, is unarguable*".

Mr Justice Holgate then in consideration states @ point (b) following on from point (a) "*Both limbs give effect to a legitimate policy concern that wind energy development can have significant effects on local communities and therefore a failure to address fully valid planning impacts raised by such a community attracts a specific policy objection*"...

*The WMS identifies a community concern which is weighted in the planning balance. It does not involve any unlawful double-counting*".

The relevant material matter we respectfully consider here, is that the outcome of this Judgement by the Honourable Mr Justice Holgate, identifies that "*the fully valid planning impacts*" in the Hawton Wind Farm case had not been addressed and therefore attracts a specific policy objection; likewise we consider in the case of Heckington Fen, our local communities have also raised fully valid planning impacts in line with the WMS policy and as such, need to be legitimately considered in the planning balance.

Furthermore the local communities consider we raised legitimate concerns as presented in the evidence we submitted by Dr John Yelland on wind turbine noise.

Dr Yelland has subsequently reviewed and considered the comments made by Mr Baldwin on behalf of Ecotricity's in his letter of 23rd May and has responded, see attached document.

Dr Yelland concludes that; *"The present application, when correctly analysed, has a significant negative noise margin and therefore my conclusions remain, as set out in my previous Wind Turbine Noise Assessment Appraisal and subsequent Rebuttal to Dr Cand's submission to the Secretary of State and that in my professional judgement Ecotricity have failed to demonstrate the necessary compliance, and that the local communities will be protected from adverse wind turbine noise impacts"*.

## **CONCLUSION.**

It is abundantly clear that Ecotricity have not only failed to respond in any meaningful way in their latest submission, but have totally failed to address the fully valid planning impacts raised by our local communities, or indeed those raised by both North Kesteven and Lincolnshire County Council, along with the submissions made by our local MP's Stephen Phillips QC and Matt Warman MP.

We therefore we respectfully call upon the Secretary of State to immediately refuse this variation planning permission, as our concerns have not been fully addressed.

Yours Sincerely,

Clare Stephenson.  
Secretary HECK OFF

Attachments:

- i) The Secretary of State decision letter Case No APP/B3030/W115/3003130 APPEAL BY WIND PROSPECT LTD AT AGRICULTURAL LAND WEST OF NEWARK ROAD, HAWTON, NEWARK-ONTRENT, NOTTINGHAMSHIRE, HG24 3RJ.
- ii) Order by the Honourable Mr Justice Holgate in respect of Wind Prospects Limited Claim for Planning Statutory Review in respect of the above decision letter.
- iii) Response by Dr Yelland on noise in respect of Ecotricity's letter dated 23rd May 2017.
- iv) "Why do some people believe that they are "made ill" by wind turbine noise". 7th International Conference on Wind Turbine Noise Rotterdam – May 2017 Geoff Leventhall Consultant UK.

---

Information: covering email sent to Keith Welford DBEIS on 27/06/2017

Dear Mr Welford

cc Matt Warman MP & Caroline Johnson MP.

Further to our email dated 19th June 2017 (see below) in which we raised our concerns that any responses by Ecotricity to the 3rd round of consultations had not been published on Ecotricity's Heckington Fen web page, nor had they been circulated by yourselves.

However it appears that following on from our email to yourselves, Ecotricity published their response to DBEIS dated 23rd of May on or around the 20-21st of June 2017.

We have now have had an opportunity to consider this latest response by Ecotricity's and are extremely concerned that they have made no meaningful effort to address any of the local communities concerns and have in effect ignored our responses particularly in regards to Condition 5 and Dr Yelland's response to Dr Cand on wind turbine noise.

We also now find it to be absolutely essential that we submit a speedy response to Ecotricity's submission especially in the light of new evidence contained in a statement made by Ecotricity's Managing Director and owner of this company Mr Dale Vince.

We have responded to this statement in full and in line with our previous submissions.

Our submission also includes a further response by Dr Yelland, who likewise finds the comments contained in this letter by Ecotricity's Project Manager to be misleading and unsubstantiated.

We also would like to confirm that this submission will be circulated to all local relevant interested parties.

We have also included the following attachments which contain important and relevant support evidence.

Attachments: (Heck Off response letter as 1st attachment)

Listed attachments referred to in Heck Off letter.

i) The Secretary of State decision letter Case No APP/B3030/W115/3003130 APPEAL BY WIND PROSPECT LTD AT AGRICULTURAL LAND WEST OF NEWARK ROAD,

HAWTON, NEWARK-ONTRENT, NOTTINGHAMSHIRE, HG24 3RJ.

ii) Order by the Honourable Mr Justice Holgate in respect of Wind Prospects Limited Claim for Planning Statutory Review in respect of the above decision letter.

iii) Response by Dr Yelland on noise in respect of Ecotricity's letter dated 23rd May 2017.

iv) "Why do some people believe that they are "made ill" by wind turbine noise". 7th International Conference on Wind Turbine Noise Rotterdam – May 2017 Geoff Leventhall Consultant UK.

The conclusions contained in this submission are that in the light of this response from Ecotricity and the statement made by Mr Dale Vince on behalf of his company that the Secretary of State speedily refuses this variation planning application.

We await your acknowledgment of our submission.

Best wishes,

Clare Stephenson

Heckington Fen Wind Turbine Action Group