

# **Officers Report**

## **Planning Application No: 146461**

**PROPOSAL:** Planning application to erect 1no. wind turbine.

**LOCATION:** Land at Hillcrest Park Caistor Market Rasen LN7 6TG

**WARD:** Caistor and Yarborough

**WARD MEMBER(S):** Cllr O Bierley and Cllr A T Lawrence

**APPLICANT NAME:** Mr Oliver Lawrence

**TARGET DECISION DATE:** 31/05/2023 (Extension of time agreed until 3<sup>rd</sup> November 2023)

**DEVELOPMENT TYPE:** Minor - all others

**CASE OFFICER:** Danielle Peck

**RECOMMENDED DECISION:** Refuse planning permission

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The application is referred to the planning committee for determination as the applicant is from the immediate family of an elected member of the Council (Councillor Mrs A T Lawrence).

The application was deferred at the planning committee meeting of July 12<sup>th</sup> 2023 for further information to be provided from the applicant to address the second and third recommended reasons for and for further clarification from NATS as to why the development would have a significant effect on air traffic control systems. The predicted energy output of the turbine was also requested by members of the committee.

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**Site Description:** The site is located outside of the developed footprint of Caistor to the south of the A46 and to the east of the B1225 (to the east of the cross roads of the A46 and the A1173/B1225). The site comprises of a number of commercial units occupied by independent and small businesses. The nearest residential dwelling (Hillcrest House) is located approximately 19 metres to the south of the site at its closest point and there is a Grade II Listed Dwelling (Top House, Farm) located approximately 161 metres to the north west of the site. The site is within the Lincolnshire Wolds Area of Outstanding Beauty (AONB).

**The Proposal:** The application seeks planning permission to erect 1no. wind turbine on the eastern edge of the existing car park at Hillcrest Park. The wind turbine would measure c. 14.7m to the top of hub and c.17.6m to the highest tip of the blade.

Following the 12<sup>th</sup> July's planning committee meeting, additional information, listed below has been received from the applicant, dated 19<sup>th</sup> September 2023.

- Energy Output- Turbine. The information provided by the applicant states the following: *The turbine will provide an annual yield of up to 12,895kwh. To put this into context an average home will use around 2,800kwh annually.*
- Visualisations of the turbine from view points around the site have been provided;
- Noise (Residential Amenity)- A wind survey has been submitted this shows a wind speed of 5.81m/s at the site. In addition to this a noise report for a similar turbine within a site near Glasgow, Scotland, has been submitted.
- A manufacturer specification detailing noise (decibel) output has also been submitted.

The additional information received (19/09/2023) can be viewed on the councils website using the following link: <https://www.west-lindsey.gov.uk/planning-building-control/planning/view-search-planning-applications/search-planning-application-database?docid=146461>

A 14 day re- consultation was carried out with all consultees on 20<sup>th</sup> September 2023. The reply's received are detailed in the representations section of this report.

### **Town and Country Planning (Environmental Impact Assessment) Regulations 2017:**

The development is within a 'sensitive area' as defined in Regulation 2(1) of the Regulations (the Lincolnshire Wolds Area of Outstanding Natural Beauty) and has therefore been assessed in the context of Schedule 2 of the Regulations. After taking account of the criteria in Schedule 3 it has been concluded that the development is not likely to have significant effects on the environment by virtue of its nature, size or location. Therefore the development is not 'EIA development'.

### **Relevant history:**

**144830-** Planning application seeking removal of condition 21 of planning permission 139273 granted 31 May 2019 re: storage of materials, goods, waste or any other articles (relating to development of 17no. rural enterprise units, consisting mainly of business use along with a retail unit, cafe and office. Demolition of existing buildings). Refused 11/08/2022.

**139273** - Planning application to vary condition 24 of planning permission 135031 granted 14 December 2016-allow local business to use the site (D2 Use)-resubmission of 138836. Granted 31/05/2019.

**138836** - Planning application to vary condition 24 of planning permission 135031 granted 14 December 2016-allow local business to use the site (D2 Use). Refused 07/03/2019.

**136232** - Request for confirmation of compliance with conditions 2,3,4,5,6,7,9 and 10 of planning permission 135031 granted 14 December 2016. Conditions partially discharged 30/10/2018.

**135031** - Planning application for proposed 17no. rural enterprise units, consisting mainly of business use along with a retail unit, cafe and office. Demolition of existing buildings. Granted 14/12/2016.

**135007** – Planning permission for change of use from A1 Retail to D2 Gymnasium. Refused 16/12/2016.

**128839** - Retrospective planning application for the change of use from Workshop to A1 Retail. Granted 10/9/2012.

### **Representations (in summary):**

Full representations can be viewed through the Councils website using the following link: <https://www.west-lindsey.gov.uk/planning-building-control/planning/view-search-planning-applications/search-planning-application-database?docid=146461>

**Chairman/Ward member(s):** No representations received to date.

**Caistor Town Council- Objects-** Concerns of height, appearance and consideration of AONB.

### **Third party representations/local residents:**

**Following the re- consultation on the additional information a further two objections from Hillcrest House, Caistor and Redroofs have been received and are summarised as follows;**

- The photographs have no measurements of the turbine nor the telegraph pole, buildings or lampposts to enable an accurate comparison of size to the buildings, telegraph pole and lampposts.
- I believe the photographs are misleading and meaningless.
- There is also no photograph showing the visual impact of the wind turbine on his nearest neighbour.
- The wind turbine addition, to the photographs is clearly not this height. By careful scaling and measuring the wind turbine added to Viewpoint 02 can only be 10m tall. This totally discredits the suggested views from each of the other photographs.
- A series of site photos is provided but there is no indication as to whether these images are accurate, to scale and in any way verified. These do not form an accurate basis for the assessment of the visual impact of the wind turbine when viewed from public vantage points and notably do not include an accurate

computer generated image of the wind turbine from my property which is immediately adjacent to the site.

- The document dated February 2019 was in relation to a wind turbine at Myres Hill, Eaglesham, south of Glasgow. Paragraph 3 of that report states: “It should be noted that the test results are only applicable to the wind turbine configuration tested.” The location and context of this specific assessment are clearly not directly applicable to the current application site
- The applicants submit a document entitled “Planning Support Pack”. But this is no more than some technical information on the wind turbine, together with drawings of the proposed structure;
- The additional information provided by the applicant fails to address the fundamental issues raised by the proposals and the objections to it.
- The proposals would have very limited benefits in providing additional wind driven electricity. However, these limited benefits are eclipsed and heavily outweighed by the significant harm and danger raised by NATS and by the substantial harm to the AONB landscape. In addition, there would be a serious diminution in my living conditions. This objection from NATS is sufficient on its own to justify a refusal of planning permission.

**5 Letters of support have been received prior to the receipt of the new information from the following addresses;**

**17 and 52 South Street, Caistor;  
5 and 8 Canada Lane, Caistor;  
106 Brigg Road, Caistor;  
18 Station Road, Grasby, Barnetby;**

**Comments summarised as follows;**

- I do not see the issue with the erection of such medium scale turbines to supplement the energy use of commercial enterprises throughout the district;
- It would be a big help to local business in that area;
- This small turbine will help the local businesses and will hardly be noticed in this location. At just 15 metres high, it will be nowhere near as visible as the nearby radio masts;
- Any attempt to move away from fossil fuel dependency should be applauded. Incentives like this, also helps businesses renting units to reduce their carbon footprint;
- There may be complaints around the aesthetic impact of the turbine, however, there are already a number of radio towers and electrical pylons a short distance from this proposed location which impact on the skyline. Taking this into consideration, I do not feel that this proposal would be detrimental to the skyline in an excessively negative way;

**1 general observation has been received from 8 Canada Lane, Caistor:**

I do have concern this may set up a precedent of having turbines in the area of the AONB. It will be EXTREMELY visible to everyone travelling along A46. If it is a lot higher than the buildings, then I will object as would be visible for dozens of miles in all directions. Would be useful to have a photo with the turbine superimposed so that persons can relate to its visual impact.

**5 letters of objections have been received prior to the receipt of the new information from the following addresses;**

**4 Riby Road, Caistor;  
Red Roofs Horncastle Road, Caistor;  
Hillcrest House, Horncastle Road, Caistor;  
Hunters Yard, Horncastle Road, Caistor;  
28 Hansard Crescent, Caistor.**

**Objections summarised as follows;**

- The site is on one of the higher sections of Caistor and due to its prominence, the siting of the proposed wind turbine will be the first thing that anyone coming into Caistor from either Riby Road or from the direction of Cabourn will see;
- I'm aware that in some cases, wind turbines can be harmful to birds and bats as they disturb the area for these. For those living closer to the actual site of the proposed wind turbine, this will be the first thing they see because of the proximity to their homes and businesses;
- The proposed wind turbine would not ensure that noise disturbance will be minimised for future occupiers nor the residential properties next door and nearby as there would be noise from it 24/7;
- Wind turbines may have an adverse affect on air traffic movement and safety. Firstly, they may represent a risk of collision with low flying aircraft, and secondly, they may interfere with the proper operation of radar by limiting the capacity to handle air traffic, and aircraft instrument landing systems;
- The wind turbine will be a substantial, tall, highly intrusive feature which will dominate my private garden. This will significantly impact upon my and my family's enjoyment of this private space and significantly worsen my living conditions;
- I am extremely concerned about noise impact. There is limited information about the noise impact. The commercial brochure submitted with the application indicates a minimum noise level of 70dBa and with the possibility during heavier winds of that noise rising to 85dBa;
- This will be a new, intrusive and unacceptable noise which will have a significant impact upon my enjoyment of my garden and my house. I predict that this noise impact will be so bad at certain times with certain wind speeds and wind direction that it will prevent my family and me using the garden and likely hearing this noise within the house;
- There is no information in the application documents about fall-over distance. However, if the structure were to fall over, then it would extend into my garden;

- There is no assessment of the impact of this proposal upon protected species and particularly bats;
- This is likely to be a particular problem in the morning with the sun shining through the rotating blades casting a moving shadow. This flicker will be an extremely irritating result of the proposals;
- There are no drawings to show the height of the proposed turbine to adjacent buildings.

**LCC Highways/Lead Local Flood Authority:**

20/09/2023- The HLLFA have no further comment to make on this application.

27/04/2023- No objections. The proposal is to erect 1no. turbine and does not have an impact on the Public Highways or Surface Water Flood Risk.

**Health and Safety Executive-** Do Not Advise Against, consequently, HSE does not advise, on safety grounds, against the granting of planning permission in this case.

**National Gas Transmission-** No Objection- The wind turbine location is approximately 200m away from NGT’s pipeline. As a result, the wind turbine is well outside the safety buffer zone.

**20/09/2023- National Air Traffic Services (NATS) – Objects. Attached as Appendix 1 to this report.**

Predicted Impact on Claxby RADAR Using the theory as described in Appendix A and development specific propagation profile it has been determined that the terrain screening available will not adequately attenuate the signal, and therefore this development is likely to cause false primary plots to be generated. A reduction in the RADAR’s probability of detection, for real aircraft, is also anticipated.

En-route operational assessment of RADAR impact Where an assessment reveals a technical impact on a specific NATS’ RADAR, the users of that RADAR are consulted to ascertain whether the anticipated impact is acceptable to their operations or not.

Unit or role	Comment
Prestwick ATC	Unacceptable
Military ATC	Acceptable

The proposed development has been examined by technical and operational safeguarding teams. A technical impact is anticipated, this has been deemed to be unacceptable.

Email correspondence from NATS dated 30/08/2023-

Formal publications to help interpret the safe operation of radar systems:  
The UK Government Aviation Regulator's Policy - [CAP 764: Policy and Guidelines on Wind Turbines \(caa.co.uk\)](#) and

European Guidance - [EUROCONTROL Guidelines on assessing the potential impact of wind turbines on surveillance sensors | EUROCONTROL](#)

In accordance with our understanding of standard planning policy, we would expect that the developer funds any changes we have to make in order accommodate the impact of their turbine on our operation.

In the past, in cases like this where mitigation appears likely to be acceptable we have approved consent subject to planning conditions of the form:

1. *No construction shall commence on site until a Radar Mitigation Scheme (RMS), (including a timetable for its implementation during construction), has been agreed with the Operator and approved in writing by the Local Planning Authority.*
2. *No construction work shall be carried out above ground level unless and until the approved Radar Mitigation Scheme has been implemented and the development shall thereafter be operated fully in accordance with such approved Scheme.*

**REASON: In the interests of aircraft safety and the operations of NATS En-route PLC**

#### **24/04/2023- National Air Traffic Services (NATS) - Objects.**

##### Predicted Impact on Claxby RADAR

Using the theory as described in Appendix A and development specific propagation profile it has been determined that the terrain screening available will not adequately attenuate the signal, and therefore this development is likely to cause false primary plots to be generated. A reduction in the RADAR's probability of detection, for real aircraft, is also anticipated.

Where an assessment reveals a technical impact on a specific NATS' RADAR, the users of that RADAR are consulted to ascertain whether the anticipated impact is acceptable to their operations or not.

Unit or role	Comment
Prestwick ATC	Unacceptable
Military ATC	Acceptable

The proposed development has been examined by technical and operational safeguarding teams. A technical impact is anticipated, this has been deemed to be unacceptable.

Our radar systems employ doppler based processing to distinguish between moving and static objects, this means that we can live with some very large buildings and masts without degrading performance, but wind turbine pose an almost unique problem due to the way they interact with our radar pulses.

**Lincolnshire AONB Wolds Officer on behalf of the Lincolnshire Wolds Joint Advisory Committee (AONB Partnership):** I write on behalf of the Lincolnshire Wolds Joint Advisory Committee who operate as the advisory body for the nationally protected Lincolnshire Wolds Area of Outstanding Natural Beauty (AONB).

Hillcrest Park is located in the Lincolnshire Wolds AONB and the landscape is of national importance. Development proposals are subject to additional scrutiny as directed by the National Planning Policy Framework (NPPF, July 2021) which reaffirms the importance of AONBs, and as stated in Para.176, and the need to apply great weight to conserving and enhancing landscape and scenic beauty in these areas (alongside the Broads and National Parks), and a requirement to limit development. The importance of protecting the natural beauty and landscape character of the Lincolnshire Wolds AONB is also recognised within the Central Lincolnshire Local Plan which stresses the importance of the designation, in particular within Policy LP17 – Landscape, Townscape and Views and accompanying Sections 5.2.1 and 5.2.4, the need within a spatial planning and development management context to carefully considering character and setting, creating and protecting views, and minimising cumulative impacts.

In terms of energy generation, the current adopted and saved Lincolnshire Wolds AONB Management Plan (2018- 23) recognises the demands for meeting future energy needs through Policy CCP4 seeking “to encourage and promote low carbon energy reduction/generation schemes that are conducive to the requirements of the AONB designation and complement local landscape character”. Policy PP7 within the Plan confirms “a general presumption against wind energy schemes in any location which would cause significant and demonstrably detrimental effects upon the natural beauty and intrinsic characteristics of the AONB”. The Management Plan does not include a specific threshold for the number and height of wind turbines turbine that would result in significant impacts upon the natural beauty of the AONB, but advises that any developments should be reviewed on a case-by case basis.

I note that this application is for a singular turbine and there will be some screening from the current business buildings. It would however be helpful if the applicant could supply a more detailed design and access statement, to include suitable photomontages (and/or wire frame visualisations) for the wind turbine proposed, which will introduce a further prominent vertical, and in this case rotating, structure into the landscape. Of particular interest would be the views from the surrounding vantage points within the AONB, including from the more immediate roadways. If a wind turbine scheme is to be pursued the Local Plan Policy LP19 – Renewable Energy Proposals is relevant and whilst not identifying any suitable areas for wind energy highlights the need for close alignment with Neighbourhood Plans; the backing of the local community; and the need to fully address any planning impacts identified by affected local communities. The turbine location is



close to surrounding properties and a multiple road junction so our preference in terms of micro-scale energy generation for this site would be for sensitively designed and located roof mounted photovoltaics.

**Archaeology:** No representations received to date.

### **Relevant Planning Policies:**

Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. Here, the Development Plan comprises the provisions of the Central Lincolnshire Local Plan (adopted in April 2023); the Caistor Neighbourhood Plan (made 2016); and the Lincolnshire Minerals and Waste Local Plan (adopted June 2016).

#### Development Plan

- ***Central Lincolnshire Local Plan 2023 (CLLP)***

Relevant policies of the CLLP include:

Policy S1: The Spatial Strategy and Settlement Hierarchy

Policy S5: Development within the Countryside

Policy S14: Renewable Energy

Policy S47: Accessibility and Transport

Policy S53: Design and Amenity

Policy S57: The Historic Environment

Policy S62: Area of Outstanding Natural Beauty and Areas of Great Landscape Value

<https://www.n-kesteven.gov.uk/central-lincolnshire>

- ***Caistor Neighbourhood Plan (CNP)***

Relevant policies of the NP include:

Policy 1 – Growth and the presumption in favour of sustainable development

Policy 2 – Type, scale and location of development

Policy 3 – Design Quality

Policy 12- Renewable Energy

A review of the existing Caistor Neighbourhood Plan is currently being prepared by Caistor Town Council, however there are currently no published draft policies that may be taken into consideration.

<https://www.west-lindsey.gov.uk/planning-building-control/planning/neighbourhood-planning/all-neighbourhood-plans-west-lindsey/caistor-neighbourhood-plan>

- ***Lincolnshire Minerals and Waste Local Plan (LMWLP)***

The site is not within a Minerals Safeguarding Area, Minerals or Waste site / area.

Other relevant non-development plan policies (material considerations)

### **Relevant Statutory Duties**

#### Listed Building Legal Duty

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

<https://www.legislation.gov.uk/ukpga/1990/9/section/66>

#### Other- AONB

S85 (1) of the Countryside and Rights of Way Act 2000;

*“S85(1) - In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty, a relevant authority shall have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.”*

<https://www.legislation.gov.uk/ukpga/2000/37/section/85>

- **National Planning Policy Framework (NPPF)**

The NPPF sets out the Government’s planning policies for England and how these should be applied. It is a material consideration in planning decisions.

<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

- **National Planning Practice Guidance**

<https://www.gov.uk/government/collections/planning-practice-guidance>

- **National Design Guide (2019)**

<https://www.gov.uk/government/publications/national-design-guide>

- **National Design Code (2021)**

<https://www.gov.uk/government/publications/national-model-design-code>

- **Lincolnshire Wolds Area of Outstanding Natural Beauty- Management Plan 2018-2023;**

Planning Practice Guidance<sup>1</sup> states: *“Management plans for National Parks, the Broads and Areas of Outstanding Natural Beauty do not form part of the statutory development plan, but they help to set out the strategic context for development. They provide evidence of the value and special qualities of these areas, provide a basis for cross-organisational work to support the purposes of their designation and show how management activities contribute to their protection, enhancement and enjoyment. They may contain information*

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<sup>1</sup> Paragraph: 040 Reference ID: 8-040-20190721, Planning Practice Guidance – Natural Environment  
(<https://www.gov.uk/guidance/natural-environment#landscape>)

*which is relevant when preparing plan policies, or which is a material consideration when assessing planning applications.”*

Consequently the Lincolnshire Wolds AONB Management Plan may be a material consideration in the assessment of this planning application.

The five key aims of the Lincolnshire Wolds AONB Management Plan are to sustain and enhance:

1. the Lincolnshire Wolds’ natural beauty and its landscape character
2. farming and land management in the Wolds as the primary activities in maintaining its character, landscape and biodiversity
3. recreational, tourism and interpretive activities and opportunities appropriate to the area
4. the economic and social base of the Wolds including the development and diversification of enterprises appropriate to the area
5. partnerships between organisations, the local community, landowners and others with an interest in the Wolds.

The plan refers to Wind Turbines as a ‘pressure’ within the AONB together with other modern development such as telecom masts which could be a visual intrusion.

PP7 (Policy) of the Plan also states; To ensure a general presumption against wind energy schemes in any location which could cause significant and demonstrably detrimental effects upon the natural beauty and intrinsic characteristics of the AONB.

<https://www.lincswolds.org.uk/our-work/management-plan>

### **Main issues**

- Principle of Development;
- Energy Output- Turbine
- National Air Traffic Services (NATS) Safeguarding Impacts;
- Impact on Visual Amenity and the Area of Outstanding Natural Beauty ( AONB);
- Impact on Residential Amenity;
- Other Matters.

### **Assessment:**

#### Principle of Development

Policy No. 12 of the Caistor Neighbourhood Plan relates to renewable energy proposals and states *“to maximise the proportion of electricity sourced locally, residential and commercial developments are encouraged to incorporate appropriate energy generation*

*technologies either onsite or offsite. Community scale renewable energy projects will be viewed favourably.”*

It goes on to explain *“this policy reflects the importance of delivering a low carbon future to address climate change concerns whilst reducing energy costs locally. The emphasis though is on local energy needs and projects that are appropriate to the character of the area rather than large scale renewable development proposals.”*

Generally therefore the Neighbourhood Plan is supportive of such development, where it is “appropriate” to the character of the area.

The site, known as Hillcrest Business Park is located to the north east of the nearby town of Caistor. It is clearly detached from the main developed footprint and it is therefore considered to be outside of the “developed footprint” as defined within the Central Lincolnshire Local Plan (CLLP), and is within the countryside. Policy S1: The Spatial Strategy and Settlement Hierarchy of the CLLP states that for proposals in the countryside, the following applies:

#### 8. Countryside-

*Unless allowed by:*

- a) Policy in any of the levels 1-7 above; or*
- b) Any other policy in the Local Plan (such as Policies S4, S5, S34, or S43) or a relevant policy in a neighbourhood plan, development will be regarded as being in the countryside and as such restricted to:*
  - That which is demonstrably essential to the effective operation of agriculture, horticulture, forestry, outdoor recreation, transport or utility services;*
  - Delivery of infrastructure;*
  - **Renewable energy generation (emphasis added);** and*
  - Minerals or waste development in accordance with separate Minerals and Waste Local Development Documents.*

In this case the proposal is a form of renewable energy generation and therefore Policy S14: Renewable Energy of the Central Lincolnshire Local Plan is the most relevant here. With regard to proposals for renewable energy schemes, it states the following:

*Proposals for renewable energy schemes, including ancillary development, will be supported where the direct, indirect, individual and cumulative impacts on the following considerations are, or will be made, acceptable. To determine whether it is acceptable, the following tests will have to be met:*

- i. The impacts are acceptable having considered the scale, siting and design, and the consequent impacts on landscape character; visual amenity;*

- biodiversity; geodiversity; flood risk; townscape; heritage assets, their settings and the historic landscape; and highway safety and rail safety; and*
- ii. *The impacts are acceptable on aviation and defence navigation system/communications; and*
  - iii. *The impacts are acceptable on the amenity of sensitive neighbouring uses (including local residents) by virtue of matters such as noise, dust, odour, shadow flicker, air quality and traffic;*

Policy S14 then goes on to detail how a proposal must test compliance with each criteria. Each of these criteria is assessed in the following relevant sections of this report.

### National Air Traffic Safety (NATS) Safeguarding Impacts

As stated above, criteria ii of Policy S14 states that any wind turbine proposals must have an “*acceptable impact upon aviation and defence navigation system/communications*”.

This is consistent with National Planning Practice Guidance<sup>2</sup> which states:

**“ Air traffic and safety**

*Wind turbines may have an adverse affect on air traffic movement and safety. Firstly, they may represent a risk of collision with low flying aircraft, and secondly, they may interfere with the proper operation of radar by limiting the capacity to handle air traffic, and aircraft instrument landing systems. There is a 15 kilometre (km) consultation zone and 30km or 32km advisory zone around every civilian air traffic radar, although objections can be raised to developments that lie beyond the 32km advisory zone. There is a c.15km statutory safeguarding consultation zone around Ministry of Defence aerodromes within which wind turbine proposals would be assessed for physical obstruction. See the Town and Country Planning (safeguarded aerodromes, technical sites and military explosives storage areas) direction 2002. Further advice on wind energy and aviation can be found on the Civil Aviation Authority and National Air Control Transport Services websites.”*

National Air Traffic Safety- en route plc is responsible for the safe and expeditious movement in the en-route phase of flight for aircraft operating in controlled airspace in the UK. To undertake this responsibility it has a comprehensive infrastructure of RADAR's, communication systems and navigational aids throughout the UK, all of which could be compromised by the establishment of a wind turbine development.

In this respect NATS is responsible for safeguarding this infrastructure to ensure its integrity to provide the required services to Air Traffic Control (ATC).

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<sup>2</sup> Paragraph: 016 Reference ID: 5-016-20140306 Planning Practice Guidance – Renewable and Low Carbon energy (<https://www.gov.uk/guidance/renewable-and-low-carbon-energy#wind-turbine-applications>)

NATS have been consulted and have responded as detailed earlier within this report. A full technical report<sup>3</sup> has been submitted by them, and the report concludes that the development will have unacceptable impacts detailed as follows;

*Predicted Impact on Claxby RADAR- Using the theory as described in Appendix A and development specific propagation profile it has been determined that the terrain screening available will not adequately attenuate the signal, and therefore this development is likely to cause false primary plots to be generated. A reduction in the RADAR's probability of detection, for real aircraft, is also anticipated.*

*Where an assessment reveals a technical impact on a specific NATS' RADAR, the users of that RADAR are consulted to ascertain whether the anticipated impact is acceptable to their operations or not.*

Unit or role	Comment
Prestwick ATC	Unacceptable
Military ATC	Acceptable

*En-route consultation- The proposed development has been examined by technical and operational safeguarding teams. A technical impact is anticipated, this has been deemed to be **unacceptable**.*

The applicant is understood to have been in contact/negotiations with NATS regarding their objection. They (NATS) have confirmed that they maintain their objection to the proposal. In other email correspondence with the applicant, questions were raised regarding the large communication towers and how these do not interfere with the radar. NATS states that;

*'The major difference between your proposed turbine and the masts to the south of the site is that the turbine blades are moving. Our radar systems employ Doppler based processing to distinguish between moving and static objects, this means that we can live with some very large buildings and masts without degrading performance, but wind turbine pose an almost unique problem due to the way they interact with our radar pulses'*

Policy Map 2 (of S14) details an opportunity map where medium and larger wind farm proposals would most likely be acceptable in principle within the West Lindsey District. It does also state at the top of the Map that small scale wind turbines (defined as up to 40m from ground to blade tip) '**in principle**' are considered acceptable District-wide, **subject to** detailed assessment and compliance with the criteria I, ii and iii of Policy S14.

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<https://wldc.t1cloud.com/T1Default/CiAnywhere/Web/WLDC/Api/CMIS/PLANNINGWEBSITE/content/?id=folder-1113501&streamId=streampdf-1113501>

Through the local plan review process an evidence report<sup>4</sup> was produced by the Central Lincolnshire policy team in relation to Policy S14. The evidence in this report is clear in that wind turbine proposals are heavily caveated acknowledging the presence of both commercial and MOD airbases in and around the area and that flight safety remains a key consideration.

Para 6.34 on page 30 confirms of the document states that discussions with the CAA, MOAD and NATS has taken place to understand the limitations for wind turbines as a result of flight paths and radar and that there are significant constraints. As such turbines planned that fall both within and outside of the opportunity area mapped will be subject to consultation with the CAA, MOD and NATS and in para 6.35 it makes it clear that *'any unresolved objections from such bodies should preclude specific proposals from being approved.'*

NATS themselves provide self- assessment maps showing line-of sight to their radars in various formats via their public website. No NATS self-assessment or pre-application with the LPA was carried out prior to the submission of this planning application.

In email correspondence with NATS it has been stated that;

*"One topic that has been covered in this correspondence (with the applicant) is the possibility of mitigation where we have stated "We are aware of the Northwold Farm turbines and we currently manage their impact on our operation. It is likely that we'd be able to do the same to yours however this would require a modification to our radar ...", in accordance with our understanding of standard planning policy, we would expect that the developer funds any changes we have to make in order accommodate the impact of their turbine on our operation.*

In the past, in cases like this where mitigation appears likely to be acceptable we have approved consent subject to planning conditions of the form:

*1.No construction shall commence on site until a Radar Mitigation Scheme (RMS), (including a timetable for its implementation during construction), has been agreed with the Operator and approved in writing by the Local Planning Authority.*

*2.No construction work shall be carried out above ground level unless and until the approved Radar Mitigation Scheme has been implemented and the development shall thereafter be operated fully in accordance with such approved Scheme.*

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<sup>4</sup> <https://www.n-kesteven.gov.uk/sites/default/files/2023-03/EVR014%20Policy%20S14%20Renewable%20Energy%20Reg19.pdf>

***REASON: In the interests of aircraft safety and the operations of NATS En-route PLC.***

“Grampian” pre-commencement planning conditions can be attached to a decision notice to prevent the start of a development until off- site works have been completed on land not controlled by the applicant. The use of planning conditions also needs to meet the 6 tests as set out in the NPPF, paragraph 56 states the following<sup>5</sup>;

*Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved in the process and can speed up decision-making.*

These conditions have been put forward to the applicant, whom has stated the following:

*“With regard to the main point raised, I absolutely, categorically do not agree to this. It is tantamount to corporate racketeering on the part of NATS in an effort to wield complete financial power over a very, very small planning application for a single turbine.”*

Given the response received, it is not considered that the inclusion of the conditions would meet the six tests to be added to any planning permission. This is due to the fact that the applicant is not agreeable to any such condition, and it would not therefore be “reasonable” to grant permission with such a condition attached. Ultimately, adding these conditions would create a planning permission that could not reasonably be implemented.

It is therefore considered that the principle of a wind turbine in this location cannot be supported due to the identified unacceptable impacts on the Claxby Radar and Air Traffic Control.

Unacceptable impacts have been identified by National Air Traffic Services which the applicant has been unable to show that they can overcome or address.

Policy S14 states that *“In order to test compliance with part (ii) [aviation impacts] above will require, for relevant proposals, the submission by the applicant of robust evidence of the potential impact on any aviation and defence navigation system/communication, and within such evidence must be documented areas of agreement or disagreement reached with appropriate bodies and organisations responsible for such infrastructure. “*

Any such “robust evidence” has not been forthcoming.

In the absence of any evidence to indicate otherwise, it is expected that the development would have an unacceptable impact upon aviation navigation systems.

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<sup>5</sup> <https://www.gov.uk/guidance/national-planning-policy-framework/4-decision-making#para55>



The proposal is therefore in direct conflict with, and is deemed contrary to criteria ii of Policy S14.

### Impact on Visual Amenity and the AONB

West Lindsey District Council, as local planning authority, has a statutory duty to conserve and enhance the natural beauty of the Lincolnshire Wolds Area of Outstanding Natural Beauty (AONB).S85 of the Countryside and Rights of Way Act 2000 requires that:

*“In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty, a relevant authority shall have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.”*

Policy S62 of the CLLP states that; *The Lincolnshire Wolds Area of Outstanding Natural Beauty (AONB) is a nationally designated landscape and has the highest level of protection. Great weight should be given to conserving and enhancing the landscape and scenic beauty in this area.* It goes on to set out criteria that development should demonstrate.

Policy S53 states that development proposals will; *Contribute positively to the sense of place, reflecting and enhancing existing character and distinctiveness; and Reflect or improve on the original architectural style of the local surroundings, or embrace opportunities for innovative design and new technologies which sympathetically complement or contrast with the local architectural style.*

Criteria i of Policy S14 states that the *impacts on landscape character, historic landscape and visual impact must be acceptable.* Policy PP7 within the AONB Management Plan (a material consideration) confirms *“a general presumption against wind energy schemes in any location which would cause significant and demonstrably detrimental effects upon the natural beauty and intrinsic characteristics of the AONB”.*

The turbine would measure c .17.6m in total height (to the tip) and would sit within the car park area of Hillcrest Business Park, on its eastern edge. Within the business park are a number of commercial units, with an approximate height of 5-6m which would form the back drop of the proposed wind turbine location. The site sits in an elevated position along the A46 Bypass that runs to the south of the main built up town of Caistor leading out towards Grimsby. Other main roads are also located to the north and south west of the site. The tall communication towers located in the landscape to the south of the site are acknowledged. However, it is considered that the proposed turbines siting, close to the A46, could be a prominent feature within the landscape, due to its location closer to public view points together its total proposed height.

It is considered that the proposed development would be in a prominent and visible location directly within the Lincolnshire Wolds AONB. The application however, has not provided a robust assessment of the landscape and visual impacts that may arise from the development.

A meeting regarding the application was held with the agent and case officer on 16<sup>th</sup> May 2023. Prior to this meeting a visualisation (long view) of the proposed turbine was provided by the agent. However, this did not show differing viewpoints and only showed the wind turbine from one location. Officers advised the agent that in order to fully assess the visual impact we would require a Landscape Visual Impact Assessment (LVIA) (to Landscape Institute level 3 GLVIA standard) to be submitted, it is also noted that the AONB officer has also requested further landscape / visual information. The assessment would provide visualisations of the wind turbine and views of it that would be seen from varying viewpoints in the surrounding area.

Additional visualisations were received from the applicant on 19<sup>th</sup> September 2023. The visualisations show the turbine from 5 different viewpoints. Whilst the visualisations do provide some context on how the turbine would appear within the area, all of these views are located within close proximity to the site. Views from further to the west and north are not included nor has a zone of theoretical visibility been provided. A zone of theoretical visibility is a tool used to identify the likely (or theoretical) extent of visibility of a development. This was raised in an email to the applicant dated 10<sup>th</sup> October, a response has been received which states the following: *“Having researched other single turbine applications across the country I cannot find anywhere an LVIA has been requested.”*

Residents have cited concerns as to whether the visualisations are an accurate reflection of the development. The applicant has responded maintaining that they are.

As detailed above the site is within the AONB, it is not clear if the applicants search of other single turbines included those within AONB designated areas, it is also at the LPA's discretion to ask for this information. It is acknowledged that the turbine would be located against a backdrop of street lighting and the existing buildings in the business park, however it is maintained that insufficient information, in the form of a LVIA has been provided to satisfy the case officer that the visual impacts would be acceptable within a sensitive landscape. It is maintained that it would be a prominent and highly visible feature within a sensitive landscape.

Overall, in the absence of substantial evidence to ascertain that the visual impacts of the development would otherwise be acceptable, it is considered likely that the development would be likely to have an adverse visual impact, in a prominent position and in the context of its AONB setting.

The proposal is considered to be contrary to policy S14, specifically criteria i, as well as policies S53 and S62 of the Central Lincolnshire Local Plan. It is also considered to be

contrary to Policy 3 of the CNP, which requires new developments to conserve and enhance rural nature.

Having regard to the statutory duty placed upon the Local Authority (S85(1) of the Countryside Act 2000), in considering whether to grant planning permission, having had regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty, it is considered that granting permission would be detrimental to this purpose.

### Impact on Residential Amenity

Part 8, criteria d of Policy S53 of the CLLP states that development proposals will:

*d) Not result in harm to people's amenity either within the proposed development or neighbouring it through overlooking, overshadowing, loss of light or increase in artificial light or glare;*

Criteria iii of Policy S14 states that renewable energy proposals must have an *acceptable impact on the amenity of sensitive neighbouring uses (including local residents) by virtue of matters such as noise, dust, odour, shadow flicker, air quality and traffic.*

The application site is adjoined, to the south, by the rear garden area of Hillcrest House, Caistor, a residential property. The proposed turbine would be located c. 20m away from this shared boundary and c.50m away from the side (north) elevation of this property. No supporting statement which describes any potential residential amenity impacts, in particular any noise impacts, has been provided with the application. It is appreciated that there is some technical information on the turbine specification sheet with regard to dba, which are expected to range from 70dba to 85dba, however no further consideration of these potential impacts has been provided.

The National Planning Practice Guidance<sup>6</sup> advises that under certain combinations of geographical position and time of day, the sun may pass behind the rotors of a wind turbine and cast a shadow over neighbouring properties. When the blades rotate, the shadow flicks on and off; the impact is known as 'shadow flicker'. Only properties within 130 degrees either side of north, relative to the turbines can be affected at these latitudes in the UK – turbines do not cast long shadows on their southern side. Given that the Hillcrest House is located to the south of the site, it is not anticipated that the proposal would cause unacceptable shadow flicker impacts.

Other residential dwellings are located c. 200m to the west (Walton House, Grimsby Road) and c. 170m to the south west (Red Roofs, Horncastle Road), it is not anticipated, given the large separation distances that the wind turbine would have a harmful impact on the amenity of these occupiers.

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<sup>6</sup> <https://www.gov.uk/guidance/renewable-and-low-carbon-energy#shadow-flicker-and-reflected-light>

The application has been accompanied with some additional information regarding the potential noise impacts. The applicant has submitted the following information to try and address the third reason for refusal.

- A wind survey has been submitted this shows a wind speed of 5.81m/s.
- In addition to this a noise report for an identical turbine has been submitted, this is not site specific, it relates to a turbine near Glasgow.
- A manufacturer specification (planning pack) detailing noise (decibel) output has also been submitted.

The report relates to a turbine, of the same specification, located to the south of Glasgow. This report details on page 4 (3 Test Wind Turbine Configuration that 'it should be noted that the test results are only applicable to the wind turbine configuration tested'. It is not clear what the existing conditions around the turbine are, it appears to be within open countryside. Accordingly, this can be given very little weight in consideration of this application.

The normal criteria for indoor sound levels in residential developments (BS8233) is 35dB during the day and 30dB at night, with short duration levels not exceeding 45dB at night in bedrooms.

The specification for the turbine (planning pack) shows that the noise level is less than 40db for between 100m-70m and 40-45db from 70m-35m. The north elevation of Hillcrest house is located c. 50m away from the turbine location. It would appear that predicted noise levels may therefore be broadly at an acceptable level for the occupiers of this dwelling. It is also appreciated that some existing noise will occur from the A46 and the db numbers do indicate that such levels would appear to meet with the British Standards, however no site-specific baseline noise assessment has been carried out which gives a clear picture of the existing situation.

Policy S14 sets out that:

In order to test compliance with part (iii) [residential amenity] will require, for relevant proposals, the submission by the applicant of a robust assessment of the potential impact on such users, and the mitigation measures proposed to minimise any identified harm.

A robust assessment has not been provided with the application, despite the applicant being afforded the opportunity to do so. It is considered that the development is likely to produce noise that would be received by a sensitive receptor (a residential property) and it has not been demonstrated that this would be at acceptable levels – this would be particularly pertinent at night time when background noise from the A46 may be low.

In the absence of this information the local planning authority have not been satisfied that the noise impacts upon residential amenity, in particular direct the neighbouring occupiers to the south, would be within acceptable levels. The proposal is therefore deemed to be contrary to criteria iii of Policy S14 and S53 of the Central Lincolnshire Local Plan.

Other matters

Energy Output- Turbine -At the planning committee meeting of 12<sup>th</sup> July it was also requested that additional information was sought with regard to the energy output of the proposed turbine.

The information provided by the applicant states the following: *The turbine will provide an annual yield of up to 12,895kwh. To put this into context an average home will use around 2,800kwh annually.*

Highways- the Highways Authority have been consulted on the proposals and have stated that they have no objections. It is not anticipated that the turbine would impact detrimentally upon highway safety in this case.

Listed Building- The Grade II listed building Top House Farm is located c. 160m to the west of the site. It is not considered that the proposal would impact upon the setting of this listed building due to this large separation distance.

The applicant has stated that *“it is important to note that the occupant of Red Roofs is a Caistor Town Councillor”*. The property of Red Roofs is within 200 metres of the proposed development and it is open to all to make comment and representations on a planning application. This is not a material planning consideration and should not be given any weight.

**Planning balance and conclusion:** The application has been considered against Policy S1: The Spatial Strategy and Settlement Hierarchy, Policy S5: Development within the Countryside, Policy S14: Renewable Energy, Policy S47: Accessibility and Transport, Policy S53: Design and Amenity, Policy S62: Area of Outstanding Natural Beauty and Areas of Great Landscape Value of the Central Lincolnshire Local Plan, the policies contained within the Caistor Neighbourhood Plan at the AONB statutory duty in the first instance as well as the provisions of the National Planning Policy Framework and guidance contained with the NPPG.

In light of this assessment the principle of development is not considered to be acceptable in this case. The proposal is clearly contrary to points i, ii and iii of Policy S14 of the Central Lincolnshire Local Plan in that it would have unacceptable impacts upon air traffic safety. In addition to this insufficient information has been provided to ascertain that the visual impacts on the Area of Outstanding Natural Beauty would be acceptable. Also, the information provided with regard to the noise impacts upon the neighbouring occupier does not satisfy the LPA that the impacts would be acceptable. The application is therefore recommended for refusal.

**RECOMMENDATION: Refuse planning permission for the following reasons:**

1. The erection of 1no. wind turbine in this location would be expected to have an unacceptable impact on aviation systems, specifically the Claxby Radar and Prestwick Air Traffic control. The proposal is therefore contrary to policy S14: Renewable Energy of the Central Lincolnshire Local Plan, specifically criteria ii,

which states that renewable energy schemes must have acceptable impacts on aviation and defence navigation systems/communications.

2. Insufficient information has been provided to satisfy the Local Planning Authority that the landscape and visual impacts of the proposal on the surrounding countryside and Area of Outstanding Natural Beauty would be acceptable. The proposal is therefore contrary to criteria i of Policy S14: Renewable Energy, as well as policies S53: Design and Amenity and S62: Area of Outstanding Natural Beauty and Areas of Great Landscape Value of the Central Lincolnshire Local Plan, and Policy 3 of the Caistor Neighbourhood Plan.
3. Insufficient information has been provided to satisfy the Local Planning Authority that the potential noise impacts from the erection of the wind turbine would be acceptable on the residential amenity of the neighbouring occupiers, located directly to the south of the site. The proposal is therefore contrary to policy S14: Renewable Energy, specifically criteria iii as well as S53: Design and Amenity of the Central Lincolnshire Local Plan 2023, these policies seek to protect the residential amenity of neighbouring occupiers.

#### **Human Rights Implications:**

The above objections, considerations and resulting recommendation have had regard to Article 8 and Article 1 of the First Protocol of the European Convention for Human Rights Act 1998. The recommendation will not interfere with the applicant's and/or objector's right to respect for his private and family life, his home and his correspondence.

#### **Legal Implications:**

Although all planning decisions have the ability to be legally challenged it is considered there are no specific legal implications arising from this report.