Date: Wednesday, August 05, 2020

From: Devon Morton, Junior Planner

Subject: Wind Turbine Development in the Township of Georgian Bluffs

Report: PL.2020.19

Recommendation


Purpose

Further to item 17.1 from the August 7th, 2019 Council meeting agenda, the purpose of this report is to review the tools available in addressing wind turbine development throughout the Township of Georgian Bluffs.

Background

The repeal of the Green Energy Act, via Bill 34 in 2018, has transferred the authority to regulate Renewable Energy projects (wind turbines) from the province to local municipalities.

In Georgian Bluffs, there are no formal policies that regulate Wind Turbine development. There are however, tools available in addressing wind turbine development throughout the Township.

Tools to Regulate Wind Turbines

The County of Grey Official Plan

There are no formal policies in the County of Grey’s Official Plan that regulate Wind Turbine development.

Township of Georgian Bluffs Official Plan

There are no formal policies in the Township of Georgian Bluffs Official Plan that regulate Wind Turbine development. Wind Turbines are not a permitted use in any designation throughout the Township of Georgian Bluffs. Wind Turbine development in the Township of Georgian Bluffs is therefore subject to an Official Plan Amendment, at
which time, Council would have the opportunity to consider the merits of each application.

Section 22 of the Planning Act provides that there are no appeal rights in respect to renewable energy undertakings (wind turbine development). If an application for an Official Plan amendment is heard before Council, and the application is refused or the amendment is not adopted, the decision of Council cannot be appealed to the LPAT (Local Planning Appeal Tribunal). Section 22 states,

(7.1) Despite subsection (7) and subsections 17 (36) and (40), there is no appeal in respect of,

(a) a refusal or failure to adopt an amendment described in subsection (7.2); or
(b) a refusal or failure to approve an amendment described in subsection (7.2). 2006, c. 23, s. 11 (6)

(7.2) Subsection (7.1) applies in respect of amendments requested under subsection (1) or (2) that propose to,

(a) alter all or any part of the boundary of an area of settlement in a municipality;
(b) establish a new area of settlement in a municipality;
(c) amend or revoke the policies described in subsection 16 (3), including, for greater certainty, any requirements or standards that are part of such policies; or
(d) authorize a renewable energy undertaking. 2006, c. 23, s. 11 (6); 2011, c. 6, Sched. 2, s. 4; 2018, c. 16, s. 8 (5).

To date, there have been no Official Plan Amendments made to permit wind turbine development in the Township of Georgian Bluffs.

Township of Georgian Bluffs Zoning By-law

There are no provisions in the Township of Georgian Bluffs Zoning By-law 2020-020 that regulate Wind Turbines. Wind Turbines are not a permitted use in any zone throughout the Township of Georgian Bluffs. Wind Turbine development in the Township of Georgian Bluffs is therefore subject to a Zoning By-law Amendment, at which time, Council would have the opportunity to consider the merits of each application.

Section 34 of the Planning Act provides that there are no appeal rights in respect to renewable energy undertakings (wind turbine development). If an application for a Zoning By-law amendment is heard before Council, and the amendment is denied or refused, the decision of Council cannot be appealed to the LPAT. Section 34 states,

(11.0.7) Despite subsection (11), there is no appeal in respect of all or any part of an application for an amendment to a by-law if the amendment or part of the
amendment proposes to permit a renewable energy undertaking. 2018, c. 16, s. 8 (6)

To date, there have been no Zoning By-law Amendments made to permit wind turbine development in the Township of Georgian Bluffs.

Building Permits and Fees

Section 8 of the Building Code Act provides that building permits are required for the construction or demolition of any building. Section 8 states,

(1) No person shall construct or demolish a building or cause a building to be constructed or demolished unless a permit has been issued therefor by the chief building official. 1992, c. 23, s. 8 (1); 1997, c. 30, Sched. B, s. 7 (1).

Wind turbines are subject to Section 8 of the Building Code Act as per the definition in Section 1. Section 1 states,

(a) A structure occupying an area greater than ten square metres consisting of a wall, roof and floor or any of them or a structural system serving the function thereof including all plumbing, works, fixtures and service systems appurtenant thereto

Schedule ‘B’ to By-Law No. 2019-133 contains a provision which places a fee of $20.00 per $1000.00 of work completed. Schedule B states,

(8) Wind Turbines $20.00/$1000 of work ***For FIT applications $10,000 per wind turbine mandatory retaining fee returnable after 20 years or upon site restoration to predevelopment

To date, there have been no building permits issued for wind turbine development in the Township of Georgian Bluffs.

Additional Information

The Niagara Escarpment Commission

Lands which fall under the authority of the Niagara Escarpment Commission are subject to land use policies established in the Niagara Escarpment Plan, 2017. Furthermore, correspondence from Senior Planner, Nick Hayward with the Niagara Escarpment Commission indicates the following:

“Wind turbines may be considered on a site-by-site basis if they are an accessory use to an existing or permitted use.

Large-scale commercial wind farms are unlikely to achieve the requirements of Part 2.8 (Agriculture), 2.12 (Infrastructure), and 2.13 (Scenic Resources and Landform Conservation) respectively nor are they generally understood to achieve the purpose of the NEPDA. Generally, the advice is to seek land outside
of the NEP area since the height of such structures makes mitigating their visual impact very difficult (2.13).

Proposals located within the Escarpment Natural Area are not likely to be entertained and NEC staff generally require a robust Visual Impact Assessment as well as an assessment of other candidate sites which would include sites outside of the NEP area. Additionally, if the proposal is commercial in nature, prime agricultural lands should be avoided.”

For additional information in regards to wind turbine development in the NEC, please contact NEC staff directly.

Bruce County

In Bruce County, as per the Official Plan, a Zoning By-law Amendment is required to permit wind turbine development, at which time, their Council would have the opportunity to consider the merits of each application.

Conclusion

The repeal of the Green Energy Act transferred the authority to regulate Renewable Energy projects from the province to local municipalities.

At this time, the Township of Georgian Bluffs does not have formal policies to regulate the development of wind turbines. There are however, tools available to regulate wind turbine development and allow Council to assess the merits of each application.

There are no appeal rights in respect to renewable energy undertakings. Council’s decision is final and cannot be appealed to the LPAT.

To date, there have been no applications submitted for wind turbine development in the Township of Georgian Bluffs.

Lands under the authority of the Niagara Escarpment Commission are subject to land use policies established in the Niagara Escarpment Plan.

It is recommended that the Committee of the Whole receive report PL.2020.19 Wind Turbine Development in the Township of Georgian Bluffs for information.

Respectfully Submitted:

Original signed by Devon Morton

_________________________________
Devon Morton, B.U.R.PI
Junior Planner