

---

# Appeal Decision

Site visit made on 11 June 2014

**by Paul Jackson B Arch (Hons) RIBA**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 22 September 2014**

---

**Appeal Ref: APP/D2510/A/14/2215935**

**Legbourne Grange, Furze Lane, Legbourne, Louth LN11 8LR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Mr Michael Clarke against East Lindsey District Council.
  - The application Ref N/100/02216/13 is dated 13 November 2013.
  - The development proposed is a single wind turbine of up to 74 metres in height (to tip) with ancillary development.
- 

## Decision

1. The appeal is dismissed and planning permission refused for a single wind turbine of up to 74 metres in height (to tip) with ancillary development.

## Main Issues

2. The main issues in this appeal are the effect of the proposed development on the landscape character and visual amenity of the area; whether the proposed means of accessing the site would be acceptable; and whether any harm caused would be outweighed by the production of renewable energy.

## Reasons

3. The appeal site consists of arable land to the south of the B1200 between Louth and Manby about 1.3 km north east of the village of Legbourne and 3.1 km south east of Louth. Fields in the locality are flat and are generally divided by hedges and drains. The Lincolnshire Wolds Area of Outstanding Natural Beauty (AONB) lies about 2.4 km to the west and extends on raised ground well to the north and south of the appeal site location. The proposed turbine would be a three bladed type with a height to the centre of the hub of about 50 metres (m) and 74m to the blade tip.

## *Policy background*

4. The development plan for the area consists of the saved policies of the East Lindsey Local Plan Alteration of 1999 (LP). A replacement Local Development Framework is in the course of preparation and a draft revised Core Strategy (CS) has been the subject of public consultation. The representations indicate that this is progressing but as it has not yet been examined in public, it cannot be given any significant weight. I have had regard to draft policies SP7 (historic environment), SP15 (landscape) and SP19 (renewable energy) referred to by the Council in its representations.

5. The National Planning Policy Framework of 2012 (the Framework) is a material consideration. Paragraph 115 says that great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and AONBs, which have the highest status of protection in relation to landscape and scenic beauty. Chapter 10 draws attention to the need to secure radical reductions in greenhouse gas emissions and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy; which paragraph 98 indicates should be approved<sup>1</sup> if its impacts are (or can be made) acceptable. Paragraph 132 says that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional. Substantial harm to or loss of designated heritage assets of the highest significance, notably scheduled monuments, protected wreck sites, battlefields, grade I and II\* listed buildings, grade I and II\* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.
6. LP policy A4 seeks to protect the general amenities of people living near to new development. Policy A5 concerns the quality and design of development, advising that development will be permitted only, amongst other things, where its design does not detract from the distinctive character of the locality. The explanatory text says that the greatest attention will be paid to the design of development in statutorily designated areas such as the AONB. With respect to the AONB, LP policy C11 says in Part A that the Council will protect the natural beauty of the AONB by not permitting development which would harm the distinctive character, role or regional or local historic significance of the area or inhibit the quiet enjoyment of the AONB.
7. LP policy C2 is referred to in the reasons for refusal and concerns listed buildings. Development that affects the setting of a listed building will only be permitted where it preserves or enhances its special architectural or historic interest. This policy must be seen in the light of the Framework, which introduces an element of balance; paragraph 97 says that policies should maximise renewable energy generation while ensuring that adverse impacts are addressed satisfactorily. It is not the case that any harm would be unacceptable; the public benefits of a proposal have to be weighed in a proper assessment of the balance, a principle continued by Government in the very recent planning guidance.
8. In accordance with the duty set out in section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA), special regard must be paid to the desirability of preserving listed buildings or their settings or any features of special architectural or historic interest which they may possess. Special attention must also be given to the desirability of preserving or enhancing the character or appearance of conservation areas, as required by section 72(1) of the LBCA.

---

<sup>1</sup> Unless material considerations indicate otherwise

9. Planning Practice Guidance (planning guidance) was issued in March 2014 and replaces a raft of previous planning policy documents and Circulars. The planning guidance says that the need for renewable or low carbon energy does not automatically override environmental protections; and local topography is an important factor in assessing whether wind turbines could have a damaging effect on landscape and that the impact can be as great in predominately flat landscapes as in hilly or mountainous areas. It also states that great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting; as the significance of a heritage asset derives not only from its physical presence, but also from its setting, careful consideration should be given to the impact of wind turbines on such assets. Depending on their scale, design and prominence, a wind turbine within the setting of a heritage asset may cause substantial harm to the significance of the asset. Proposals in AONBs, and in areas close to them where there could be an adverse impact on the protected area, will need careful consideration; and protecting local amenity is an important consideration which should be given proper weight in planning decisions.
10. I have also given weight to the Lincolnshire Wolds AONB Management Plan 2013-2018 which has been adopted by the Council and neighbouring Councils as well as the County Authority. This recognises the pressures for change within the AONB whilst maintaining the primary function of safeguarding its natural beauty. One policy particularly relevant to this application is PP7 which seeks to ensure a general presumption against wind energy schemes in any location which could cause significant and demonstrably detrimental effects on the natural beauty and intrinsic characteristics of the AONB.

*The effect on the landscape character and visual amenity*

11. The site lies within National Landscape Character Area Profile 42 *Lincolnshire Coast and Marshes* and adjacent to 43 *Lincolnshire Wolds*; and in Local Landscape Character Area (LCA) I1 *Holton le Clay to Great Steeping Middle Marsh* as defined by the East Lindsey District Landscape Character Assessment (ELLCA) of 2009. The LCA is about 6.6km wide at this point. From the appeal site to the adjacent coastal LCA J1 *Tetney Lock to Skegness Coastal Outmarsh* is about 4km.
12. In terms of landscape sensitivity, the ELLCA advises that development should be sympathetic to the scale, pattern and rural character of the area, taking into account the small scale of existing developments, the uncluttered views and the distinctive patterns of hedgerows, trees, woodland and shelter belts, with an overall landscape character sensitivity of moderate to high.
13. A high magnitude of change within a radius of 2 km is acknowledged by appellant with a major adverse significance of effect<sup>2</sup>. However, LCA I1 forms the eastern setting for the low hills and ridge line of the AONB and is visible from many parts of it, in broad views towards the coast. The AONB lies well within a radius of 2-5 km. The LVIA asserts a magnitude of medium to low giving rise to a moderate to minor adverse significance of effect here, and I do not disagree as far as the landscape character to the east is concerned, but to the west the assessment does not take proper account of the gradual change in magnitude with distance nor the particular circumstances of the landform,

---

<sup>2</sup> Referring to the Landscape and Visual Impact Assessment (LVIA) submitted with the Environmental Appraisal

which rises consistently, locally increasing the level of sensitivity. I consider the level of change here within 2-4 km from the proposed turbine to be high/medium, with a major/moderate adverse significance. As the AONB is a dominant influence on the LCA appreciated from the north and south, I consider the impact here to be similar.

14. Turning to visual impact, the east facing slopes are crossed by several public footpaths between Muckton, Legbourne, Little Cawthorpe, Kenwick and Burwell, all within the AONB. Users of these routes are considered to be of high sensitivity along with local residents. The proposed turbine would be a constant and defining element in the flat land in LCA I1 that forms the setting of the AONB. The moving blades would be a distraction that would diminish the sense of tranquillity that characterises LCA I1 and the eastern slopes of the AONB where there are also a significant number of dwellings. Whilst other wind energy developments are or will be visible from these slopes, including Conisholme, Yarbrugh and Gayton le Marsh, these are all in or very close to the coastal LCA J1 and are not prominent in the setting of the AONB. The turbine would be the dominant feature or focal point of the view<sup>3</sup> and would constitute a high/medium magnitude of change, leading to at least a major/moderate adverse significance of effect.
15. There are footpaths in the areas to the east, north and south of the site which would be affected within 2 km of the proposal as well as leisure activities and camping/caravanning locations. However the impact on users of these of a single turbine would be limited and the degree of harm would not be sufficient on its own to dismiss the appeal. I have also taken account of the visual impact of the scheme from residential properties including their gardens. There would be some properties, particularly in Legbourne, where the turbine would become a new focal point in views from houses, but it would not be so close or so dominant as to seriously compromise anyone's outlook or amenity.
16. The Council suggests that the turbine would also 'fill a gap' between existing turbine developments. Looking down in to LCA I1 from the foothills of the AONB I have some sympathy with this view, but it is dependent on distance. A judgement has to be made on cumulative impact based on the disposition, size and extent of adjacent wind energy schemes. In the sense that LCA I1 provides a breathing space between turbine schemes in LCA J1 and the AONB, I concur that the proposal would contribute to an impression of uninterrupted wind development.
17. The AONB Management Plan draws attention to threats and pressures including inappropriate and insensitive development both within and adjacent to the AONB including wind farms; and the impact on views within, to and from the AONB. Ridge top views, which are one of the special characteristics of the AONB, are to be safeguarded. Although policy PP7 is aimed at countering the cumulative impact of medium/large scale wind farms in close proximity to the boundary, not individual wind turbines, the principle of the policy is that wind energy has the potential to diminish the AONB's special qualities. I consider the close proximity of this proposal would detrimentally affect the landscape character of the central part of the AONB primarily because of its height, which would be, at about 94m AOD almost as high as the A16 which traverses the

---

<sup>3</sup> Best appreciated in the area around viewpoint 4

highest part of the adjacent ridge. It would be conspicuous over the nearby blocks of trees and woodland.

18. I conclude that the proposed turbine would conflict with the landscape and visual amenity protection aims of LP policies A4 and C11 and the Framework and would significantly detract from the setting of the Lincolnshire Wolds AONB, contrary to the aims of policy PP7 in the Lincolnshire Wolds AONB Management Plan.

#### *Access to the site*

19. Swept path diagrams submitted by the appellant together with notes on each junction and bend indicate to me that with judicious cutting back, some temporary surfacing and removal of signs, the proposed turbine and equipment could be safely delivered and erected. Restoration of the features of Furze Lane could be ensured by condition. I do not find any credible arguments that this matter should obstruct the granting of planning permission.

#### *Other matters*

20. I have had regard to the effect on heritage assets which include the high steeple of St James's at Louth and the Grade I listed All Saints Church, Legbourne, as well as a large number of listed buildings at farms and in villages and a conservation area in Louth. The church at Louth is a conspicuous focal point and important feature at the centre of the conservation area visible for many kilometres, but there would be very few locations where the turbine would be seen in conjunction with it, due to distance, vegetation and blocks of trees. There would be a slight/negligible degree of harm to its heritage significance. The church at Legbourne is set within its own churchyard with a number of mature trees. On approaching the church I consider it likely that turbine blades would be visible above the roofs of houses in Church Lane. From the churchyard I consider it likely that turbine blades would be visible over modern bungalows. This is a setting that is already affected by contemporary housing development and as such I consider the degree of harm to the setting as being moderate adverse. In this I concur with the appellant's assessment. I have considered all the other heritage assets within a radius of 5 km and agree with the appellant's conclusions in the Environmental Appraisal. There would be a range of moderate and moderate/minor, and minor adverse impacts that need to be considered in the overall balance. However in no case would there be 'substantial harm' in the terms of the Framework.
21. I have had regard to all the other matters raised including the potential of a detrimental impact on highway safety and tourism but do not find any convincing evidence that these would actually be significant over a long period or would be sufficient to conflict with development plan policies or the Framework. I have had regard to other cases referred to but each proposal must be considered on its own merits and I do not have full details of all the other schemes mentioned. There appear to be significant differences in terms of relative location and size.

#### *Balance*

22. The production of about 500 kilowatts of electricity, sufficient to provide power for around 398 households, is a very significant factor in favour, along with the

reduction in CO<sub>2</sub> emissions that would result and the benefits in terms of farm diversification. There is no relaxation in the Government's drive to increase the proportion of renewable energy in the nation's power supplies. I recognise that renewable energy proposals are sustainable by definition and enjoy a presumption in favour, as set out in paragraph 14 of the Framework. This means that they should be approved, unless there are policies that indicate development should be restricted, such as those related to AONBs and heritage assets.

23. Against that there would be a moderate/substantial adverse magnitude of effect on landscape character and visual amenity; a significant adverse impact on the setting of the Wolds AONB; and a degree of harm to heritage assets. In accordance with s66 of the LBCA, the preservation of setting is to be treated as a desired or sought-after objective, and considerable importance and weight attaches to the desirability of preserving the setting of listed buildings when weighing this factor in the balance. The development would be in place only for 25 years but this is a long time in which there would be a significant adverse effect on the landscape and the setting of the AONB. Whilst I have not found that there would be undue difficulties accessing the site, these are very significant disadvantages which cannot be mitigated or made acceptable. They significantly and demonstrably outweigh the public benefit and the production of renewable energy in this case.

### **Conclusion**

24. The appeal should be dismissed.

*Paul Jackson*

INSPECTOR