
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 August 2014

Appeal Ref: APP/D2510/A/13/2205773

Land to the east of the Old Brickyard Plantation, Mawthorpe, Lincolnshire LN13 9LY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mawthorpe Farms Ltd against the decision of East Lindsey District Council.
 - The application Ref N/198/00676/13, dated 12 April 2013, was refused by notice dated 18 September 2013.
 - The development proposed is one turbine and associated infrastructure.
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Preliminary matters

1. The above description is a shortened version of that on the application form. I have taken the whole description into account.
2. On 6 March 2014 the Department for Communities and Local Government published web based Planning Practice Guidance (hereafter referred to as planning guidance), previously in draft, which replaces a wide range of previous planning guidance documents. The parties were requested to comment on the planning guidance and indicate how it may affect their cases. The comments have been taken account of in this Decision.

Decision

3. The appeal is dismissed.

Main Issues

4. The main issues in this appeal are the effect of the proposed development on the landscape character and visual amenity of the area; the effect on the setting of listed buildings at Grade 1 and II* and a registered Park and Garden at Grade II; and whether any harm caused would be outweighed by the production of renewable energy.

Reasons

Background

5. The appeal site consists of open arable land to the east of the B1196 between Gunby and Alford. Fields in the locality are large and flat and are generally divided by hedges and drains. Raised ground is visible to the west included in the Lincolnshire Wolds Area of Outstanding Natural Beauty (AONB). The proposed turbine would be a three bladed type with a height to the centre of

the hub of about 40 metres (m) and 67m to the blade tip. The turbine is intended to support the local farm business of the applicant and the production of timber flooring from local woods on the Mawthorpe Farms Estate.

Policy

6. 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. No CS policies have been referred to in the reasons for refusal but I have had regard to draft policies SP7 (historic environment), SP15 (landscape) and SP19 (renewable energy) referred to by the Council in its representations.
7. 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 approved¹ 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.
8. 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.
9. 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. Policy C7 concerns historic landscapes and says that development will not be permitted which would harm the character, appearance or setting of

¹ Unless material considerations indicate otherwise

historic landscapes at Well Hall amongst others. These policies 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 recent planning guidance.

10. 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
11. Planning Practice Guidance (planning guidance) was issued in March 2014. It 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.
12. 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 landscape character and visual amenity

13. 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.
14. The NCA profile notes that the visual impact of expanding renewable energy developments is one of the biggest pressures on the NCA because of the impacts on the long rural undisturbed rural views which are characteristic of the area. The ELLCA for I1 notes relevant key characteristics including a

distinctive and tranquil rural landscape with very few minor detractors. It advises that views are mostly uncluttered and include those to the AONB and to wind farms including Conisholme (20 turbines at 89m high) to the north. I note that since that assessment, other wind energy developments have been erected at Lincolnshire Poacher, Ulceby in the AONB (1 turbine at 49m) and at Bambers Farm (16 turbines at 87m), though neither of these are within LCA I1. The blades of Ulceby are clearly visible from the appeal site location turning over the ridge above Well. Heritage features including Well Hall (or Well Vale Hall) are mentioned. Landscape forces for change mention wind farms at Conisholme and in the adjacent J1 *Tetney Lock to Skegness Coastal Outmarsh* LCA where Conisholme and Bambers Farm wind farms are located.

15. 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. The appellant's Landscape and Visual Assessment (LVA) recognises that the AONB is 1.9 km away to the south west at its closest point but judges the landscape sensitivity of I1 to be medium². This contrasts with the ELLCA. Using the appellant's own definition of 'medium'³, a more accurate level would be medium/high. Even allowing for the flat nature of the immediate surroundings and some minor detractors such as chicken sheds to the north east and modest electricity pylons, the proximity of the distinctive high land of the AONB alone suggests a higher level of sensitivity; the appellant recognises it as important in the landscape setting as a strong backdrop.
16. Turning to the level of impact, the turbine would become a defining feature of the immediate area introducing a high magnitude of change extending for a radius of about 1.5-2 km, varying and dependant on vegetation screening. This encompasses almost the entire width of this part of the LCA and part of the AONB. Whilst the turbine would not be out of scale with the nearby field pattern, that is limited in extent and the moving blades would be visible over surrounding belts of trees and hedgerows in more intimate landscape typology. As such the character of this part of the rather narrow LCA would be significantly changed. Using the appellant's definitions⁴, the magnitude of change within I1 would be at least medium/high, leading to a significance of effect of moderate/substantial. Even recognising that only the southern end of the LCA would be affected and that the overall impact on the whole LCA would be less, its narrow plan form indicates that a more focussed method of analysis is appropriate if the effect on the intrinsic characteristics is to be properly understood. I conclude that there would be a significant adverse effect on the landscape character of the southern end of the LCA, or in other words, a noticeable moderate/substantial deterioration in the existing tranquil and uncluttered landscape.
17. LCA I1 connects the foothills of the Wolds to the coastal plains. It forms the surrounding setting to the eastern part of the Wolds AONB. The proposed turbine would be a prominent feature in that setting. The AONB Management Plan draws attention to threats and pressures including inappropriate and

² Table 2

³ LVA paragraph 2.8

⁴ LVA paragraph 2.9

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 south eastern part of the AONB primarily because of its height, which would be, at about 74m AOD (7 + 67m) almost as high as the highest part of the adjacent ridge. It would be conspicuous over the nearby blocks of trees and woodland. The turning blades would appear disconnected from the associated buildings of the farm and would be conspicuous and distracting. Moreover, in some locations the ridge top, Ulceby Grange wind turbine would be visible at the same time, further emphasising a change in the landscape character. In considering this matter, I have taken account of the views of the Inspector in the Gayton le Marsh wind farm case⁵ and do not disagree that it is the fact that one can see for miles that makes the view special. However the appeal site is prominent in the setting of the AONB, unlike the Gayton le Marsh scheme which would be much nearer the sea and would be seen in the context of a different LCA and other wind farm development.

18. With regard to the LCA immediately to the east, J1 *Tetney Lock to Skegness Coastal Outmarsh*, wind energy development is much more prominent here and the AONB is also further away. The proposed turbine would be seen in wide views towards the Wolds in an area in which there are currently no turbines of any significant height. However the magnitude of effect would be only medium. As for cumulative landscape impact, turbines at Bamber would also be visible in views of the proposal from high ground to the west and would give the impression of encroachment towards the generally uncluttered and attractive AONB. This adds further harm to the impact on landscape character.
19. The scheme would be a very prominent feature for some distance for those using the Alford-Willoughby public footpath which passes in close proximity; and the Willoughby Branch Line Nature Reserve which follows the route of the disused Mablethorpe branch line to the south east. I consider the relatively close proximity of the turbine would affect qualities of the AONB appreciated by those who use the networks of public rights of way linking settlements to the south west of Alford including Claxby St Andrew, Ulceby, Rigsby and Well. The views of the tower and/or moving blades would detract from the experience of those using these rights of way to varying degrees depending on vegetation cover. However, it would be a more or less constant feature in the background in an area in which there is currently a lack of significant man made features.
20. For those living, working in or driving through the area on the Alford-Willoughby Road or the lanes passing through local settlements including Farlethorpe, Cumberworth, Mumby and Thurlby, the turbine would be a frequently seen defining landscape feature that would contrast with the rural tranquillity that characterises the area. Because of the AONB in the background in very many of them, the level of sensitivity should be slightly elevated to medium; and for tracks in the AONB or close to it, high. Using the appellants' own matrix, the significance of effect would not be negligible, but

⁵ Ref APP/D2510/A/12/2176754

would in my opinion, be moderate, representing a noticeable change in the existing view.

21. 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.

Heritage assets

22. Well Vale Hall is a Grade II* house originating in the early 17th century, in its own Grade II Registered Park and Garden (RPG), about 1.76 km to the west north west of the turbine site. It lies on raised ground about 10m higher than the turbine location. To the west of and approximately 2.12 km from the site is the slightly later Grade I listed Parish Church of St Margaret, raised above the House by a further 20m and enjoying a broad view across the estate extending towards the coast. The listing description is informative on the relationship between the house and church, which is deliberately constructed on the same axis as the double fronted house: *'The importance of Wellvale (sic) House lies in its park setting and the careful landscape relationship between house and church'*. These receptors are rightly ascribed high sensitivity.
23. The turbine would not be visible on the approach to the house. There is a block of woodland next to the farm buildings owned by the appellant and a large area of woodland on the estate between the turbine and the house which would screen, to a large extent, views of it from the rear of the house, though blades may be visible above and through the trees in the winter, especially from the upper floors. That could be affected by tree removal in parts of Low Wood planned by the owner⁶, and the turbine would be visible from its park setting to varying degrees as a distracting modern element. Overall I consider the effect on the house and garden to the east would represent a change of moderate significance.
24. More significant is the effect on the church which has attractive views including the house in a designed vista including a lake, the RPG and the broader estate. From here the turbine would not currently be easily visible because of the intervening nearby estate trees on the hillside, a mixture of ash, beech and oak, but these are in the latter part of their lives, as indicated by dying and decaying examples. Although being replaced with young trees as and when necessary, the potential distraction of conspicuous blades turning above woods on lower ground just off the main axis of view, in a very important setting which is very sensitive to change, cannot be ignored. New young trees would not obscure the turbine which would appear anachronistic and harmful in a setting which has remained largely unchanged (allowing for repairs and fire damage at various times) since the 18th century. Moreover, the unfolding of the landscape in the flat lands as one emerges from the AONB on the footpath from behind the church is a valued experience, involving the viewer in the wider setting of the AONB at the same time as the axial relationship between the setting of important heritage assets comprising the pedimented church, the RPG and the house; and other listed buildings in the grounds. Off shore wind turbines are conspicuous off the coast at Skegness in this experience, albeit at some distance. In my view, any other nearer turbine that interfered with that would be a significant detractor. The significance of effect would be moderate/substantial.

⁶ Willoughby Farms Limited in a letter dated 16 August 2012

25. I attach significant weight to the harm to the setting of St Margaret's Church and Well Vale House, though in terms of the Framework, it would be 'less than substantial'.
26. I have taken account of all the other heritage assets in the area identified by the appellant and the Council including those nearest to the proposal including the Grade II listed Church of St Andrew at Farlesthorpe. For reasons of distance, surrounding vegetation, orientation or other aspects of setting, I do not find that the heritage interest of any would be unacceptably harmed by the proposal. I conclude on this matter that the proposal would conflict with the heritage protection aims of LP policies A4, C2 and C7 and the objectives of the Framework.

Renewable energy benefit and balance

27. There is no relaxation in the Government's drive to increase the proportion of renewable energy in the nation's power supplies. The supply of up to 500 KW of renewable energy for use on the farm and by associated enterprises and the associated reduction in CO₂ emissions are very significant factors in favour of the proposal, and would also be of public benefit. I recognise that renewable energy proposals are sustainable by their very nature and enjoy a presumption in favour, as set out in the Framework. This means that they should be approved, unless there are policies that indicate development should be restricted. Such policies include those related to AONBs and heritage assets.
28. 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 harmful impact on the setting of important heritage assets. These are very significant disadvantages which cannot be mitigated or made acceptable. They significantly and demonstrably outweigh the production of renewable energy, the reduction in greenhouse gases and the public benefit in this case.

Conclusion

29. The appeal must be dismissed.

Paul Jackson

INSPECTOR