



Appeal Decision

Site visit made on 31 March 2014

by Graham Dudley BA (Hons) Arch Dip Cons AA RIBA FRICS

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

Decision date: 23 July 2014

Appeal Ref: APP/Y2810/A/13/2201181

Land south of Banbury Road, Canons Ashby, Northamptonshire NN11 3SD

- 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 Mr Hugh Paton against the decision of Daventry District Council.
 - The application Ref DA/2012/0699, dated 17 July 2012, was refused by notice dated 24 April 2013.
 - The development proposed is the erection of two 250kW wind turbines and associated equipment comprising control house, external transformer compound, DNO substation, metering cabinet and external switch station, and access track.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of two 250kW wind turbines and associated equipment comprising control house, external transformer compound, DNO substation, metering cabinet and external switch station, and access track at land south of Banbury Road, Canons Ashby, Northamptonshire NN11 3SD in accordance with the terms of the application, Ref DA/2012/0699, dated 17 July 2012 and the plans submitted with it, subject to the conditions attached at Annexe A.

Main Issue

2. The main issue is the effect on the significance and special architectural and historic interest of nearby heritage assets, including Canons Ashby, The Church of St Mary, registered parkland, ancient monuments and conservation area.

Reasons

3. The development plan includes saved policies of the Daventry District Local Plan [LP]. LP Policy GN1 is a general policy which notes that the granting of planning permission will be guided by, amongst other things, protection and enhancement of the environment. LP Policy GN2 indicates planning permission will normally be granted for development provided that, amongst other things, it would not adversely affect a conservation area or a listed building and its setting. This reflects section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, which requires when considering applications that may affect a listed building or its setting that special regard be paid to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses and Section 72(1) which requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area. LP Policy EN42 notes that planning permission will be granted for development provided that the design promotes or reinforces local distinctiveness and enhances its

surroundings; its scale, massing and height in combination must ensure that the development blends well within the site and with its surroundings.

Heritage Assets

4. The Framework notes 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 Framework describes the setting of a heritage asset as the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.
5. In enacting section 66(1) Parliament intended that the desirability of preserving the setting of listed buildings should not simply be given careful consideration by the decision-maker for the purpose of deciding whether there would be some harm, but that it should be given 'considerable importance and weight' when the decision-maker carries out the balancing exercise. Even where 'less than substantial' harm is identified, Section 66(1) requires considerable importance and weight to be given to the desirability of preserving the setting of a listed building when carrying out the balancing exercise.
6. The proposed turbines would be in the vicinity of Canons Ashby House (grade I listed), The Church of St Mary (grade I listed), Canons Ashby Conservation Area and the registered park of Canons Ashby House. There is also Canons Ashby ancient monument. These heritage assets are grouped together with the conservation area and together they form an important cluster of heritage assets and a visually attractive group in the landscape.
7. The scheduled ancient monument extends over much of Canons Ashby, with the closest part being near the church, and includes land extending out from it towards the appeal site, with a number of earthworks near its boundary. The monument has some visual aspects including mounds and pond locations, but much of its interest will be archaeological, in the ground. The relationship of the land forming the ancient monument with the surrounding agricultural landscape will be an important aspect of its significance and the surrounding land would have formed part of its historical setting and still is a part of its setting, providing the visual rural surroundings. However, the evidence does not suggest an important or designed relationship with the appeal site or of any importance of views into or out from the area of the appeal.
8. Canons Ashby House is important historically because of its development previously being a monastery, with significant changes following dissolution and the history associated with its subsequent changes and occupation. Its significance relates to its design, development, social history and materials.
9. The registered parkland is a very important part of the setting of Canons Ashby House. In this respect the most impressive parts are formally laid out and designed gardens, but the main part of these extend away from the house on the opposite side from the appeal site. The formal walled gardens and landscaping lead out to the agricultural landscape via landscaped ponds. Although concerns were expressed that the turbines would affect views in and out from these formal areas, it is clear from the site visit and from the visualisations produced that there would be very little impact on these areas,

because of the layout and because of intervening vegetation and buildings. The relationship of the house and registered parkland would not be affected by the proposed turbines.

10. I acknowledge that the turbines would be visible from the top of the tower, but at some distance and seen in the context of the wide agricultural landscape. The tower platform is not a decked out area and is accessible up a relatively narrow stair, which suggests that it was and is only intended to be accessed occasionally for maintenance, repair and other similar occasions. The visibility of the turbines would not have a considerable impact. There would also be views towards the turbine location from the impressive oriel window. However, there are intervening buildings and much vegetation, so views would be very limited and the impact minimal.
11. St Mary's Church's significance relates to its history and association with the former monastery, design, construction and its important parochial role; its tower is a primary visual feature, ensuring that it is dominant in the landscape, reinforcing the church's role in the parish. Its setting is the church yard and surrounding buildings of Canons Ashby. However, the surrounding agricultural land is important, providing the wider rural setting for views out from and to the church.
12. The introduction of turbines will have some impact on the setting of the various heritage assets, in that the proposal would introduce modern structures into their visual landscape. However, the important inter-relationship of buildings within Canons Ashby would not be affected. The turbines themselves take up a small part of the land into which they would be introduced. While they would change the appearance of the landscape, its overall agricultural and rural character would be unchanged. In terms of appearance, the impact would be in a small part of a wider landscape. Views directly out from the church towards the turbines would be minimal. There would be some views, mainly from the edge of the churchyard. However, here the effect would not be considerable given the size and distance the turbines would be.
13. I acknowledge that the turbines would be visible from the top of the church tower, but this is not a location which is commonly accessed and the impact on viewers from here would be limited. The conservation area is relatively compact, with buildings and trees, so the ability to view the church from within the conservation area or grounds of Canons Ashby House with the turbines in the same view is limited. Visualisations prepared from within the parkland and grounds of Canons Ashby House show that there would be very limited ability for conflict between heritage assets and the proposed turbines.
14. There is raised ground towards Eydon, allowing views back to all the heritage assets at Canons Ashby with the landscape beyond, including the appeal site visible in those views. However, at this point it would be a substantial distance to the turbines and these would form a small part of the overall landscape. Given the imposing nature of the church and Canons Ashby House, these would remain the dominant and important features in the landscape and would not be significantly affected by the proposed turbines.
15. English Heritage notes that 'we have considered the proposal and conclude that the overall intervisibility between the proposed turbines and the heritage assets and their settings is generally limited and that the visual impact on setting is minimal.'

16. Overall, I consider that the harm identified is low, and in terms of the Framework should be 'less than substantial' harm. This harm and harm associated with Section 66 needs to be taken into the balance with public benefits. The proposal would not accord with LP Policies GN1 and GN2.

Other Matters

Character and Appearance

17. The council's reasons for refusal did not include any harmful impact on the character and appearance of the surrounding area, other than in terms of the impact on heritage assets, which is considered above.
18. The application site lies in open countryside comprising agricultural land. It is about 750m east of Canons Ashby and approximately 1km from the villages of Adstone and Moreton Pinkney. The site is within the boundaries of a large arable field, bounded on all sides by hedgerows. Agricultural fields extend beyond the site all around. There are a number of detached properties, including farm complexes. The nearest properties are Fourwinds and Thorney Farm to the north, Manor Farm and Highfields Farm to the north east and a mobile home at Oxmoor Farm to the south. There are residential properties at Canons Ashby adjacent to the church and in other villages further away.
19. The surrounding land generally is a series of interlocking rounded undulations, which from the higher areas, such as at Moreton Pinkney and Eydon, there would be distant views to the turbines at the appeal site. Some areas including nearer to the site, such as by the lakes at Canons Ashby, are at lower levels and intervening hills, buildings and topography would prevent views of the turbines.
20. The area generally has a strong pattern of hedgerows with trees interspersed, enclosing arable and pasture fields, with some small to medium sized belts of trees including a small area of woodland near Plumpton.
21. The proposed turbine would be on ground gently sloping away from Canons Ashby. There would be many near and distant views of the turbine, although generally when travelling along the roads such views would be sporadic with much of the distant and close views prevented by vegetation. Generally when travelling around, the turbines would be seen as intermittent features and not a continual dominating presence. Even though views would be intermittent, there will still be many viewing points from roads and footpaths because of the low undulating land form.
22. I consider that the introduction of this wind turbine would be seen in the same way that other modern necessary infrastructure is, such as some masts nearby. The turbines would be well designed aero dynamic structures of relatively slender shape. While I note the two blade arrangement rather than the more usual three blade, I consider that this would not have a significant effect. The blades would generally be rotating and, in my view, two blades would not be seen to be materially different in terms of their effect on appearance from three blade designs. The turbines would have relatively little physical impact on the surrounding countryside, allowing farming of the land to continue and views of the countryside to remain in front of and beyond the turbine. The essential existing rural character of the countryside would be retained.

23. I have considered the effect on Canons Ashby in terms of impact on heritage assets and similar comments apply in relation to character and appearance. From the other surrounding villages and nearby houses the views to the turbines would be at a considerable distance, with the nearest next village being Moreton Pinkney which is over 1.2 km away. While the turbines would be visible from some parts of these villages they would be distant features and would not dominate the landscape from these locations.
24. However, I accept that in closer proximity to the turbines, such as from nearby rights of way, they would be more dominant and imposing, and while not changing the character of the landscape, they would cause visual intrusion. Although this would be limited by topography and vegetation from some direction, it would not accord with the overall aims and objectives of local policy EN42, particularly to protect or enhance the countryside.
25. With each introduction of wind turbines, there can be the possibility of some cumulative change in the appearance of the countryside, but no other turbines have been identified or were visible at the site visit.
26. I conclude in terms of character and appearance that, while changing the appearance of the immediate landscape, these turbines would neither be unacceptable in terms of the changed appearance nor would they significantly change the overall rural character of the area that is based mainly on agricultural uses. Nevertheless, I acknowledge that there would be some harm in relation to the effect on the appearance of the immediate area and it would not fully accord with LP Policy EN42, with limited blending in and enhancement, and this harm needs to be balanced against the potential benefits along with harm associated with Section 38(6) of the TCPA.

Living Conditions

27. The nearest dwelling to the appeal proposal is at Oxmoor Farm, a mobile home located approximately 434m from the turbines' location. It is orientated roughly north south, with views towards the appeal site. However, the mobile home is located in the context of large agricultural buildings and there is intervening screening formed by a line of trees. In my view, taking account of the turbine height, the context of the setting, the line of trees and distance from the turbines, I do not consider that overall Oxmoor Farm would become an unattractive place to live. Nevertheless, there would be some minor impact on the residents that needs to be taken forward into the planning balance.
28. Fourwinds and Thorny Farm are the next nearest dwellings and are located close to each other to the north of the appeal site being about 600m away. Thorny Farm has living rooms facing south east and a kitchen and bedroom facing south west. Parts of the garden and patio also face the site. There is also adjacent pasture land bordering the site. These properties were viewed at the boundary of their land towards the appeal site.
29. There would be some views of parts of the turbines from some parts of the houses and gardens, but there is some intervening vegetation. The proposal would clearly impinge on some views in a distinctive way but, in my opinion, taking into account the height of the turbines, because they would be located a good distance away with some intervening vegetation, I do not consider that overall either Fourwinds or Thorny Farm would become unattractive places to

live. Nevertheless, it will have a moderate impact on the residents that needs to be taken forward into the planning balance.

30. The residential dwelling next to the church would also have views towards the turbines, with the closest turbine being reasonably prominent in views from the properties. However, again there would be some intervening vegetation and with the reasonable distance the turbines would not cause these residences to become unattractive places to live, but again some harm needs to be taken forward to the planning balance.
31. Other properties more distant from the turbine location are also identified as being exposed to impact because of the visibility of the turbines. Having considered the location of these properties, including those located on the periphery of the nearby villages, particularly because of the distance away, intervening vegetation and topography, I conclude that none would be unacceptably affected by the proposed turbine.
32. Overall I conclude that none of the nearby residences would become unattractive places to live, although some harm has been identified that needs to go forward to the planning balance.

Noise

33. The turbine has been assessed in relation to noise against advice contained in ETSU-R-97 and demonstrates that the noise levels at nearby residential properties would meet the noise limits described in ETSU-R-97. Conditions are proposed that would provide further protection.
34. In terms of shadow flicker, taking consideration of the blade diameter and distance to residential properties, there is nothing that would indicate there would be problems caused.

Conditions and Undertaking

35. The appellant has provided an undertaking to make annual payments to nearby parish councils. While I accept that this would be a benefit to those councils it does not affect the planning issues upon which I have made my decision.
36. In the interests of safety it is necessary to notify the MoD and CAA of the time when the structures are erected, their location and to provide warning lights.
37. In order to safeguard the character and appearance of the area, it is reasonable that the colour of the turbines, signs and symbols etc. attached to it be controlled. For the same reason it is also reasonable that the length of the permission be controlled and that at the end of the period, or if operation ceases earlier, the turbines should be removed and land made good. The permission has been made in the light of the turbines proposed, so it is reasonable to protect the amenities of the area that these shall be used, or alternatives approved by the council.
38. In order to maintain highway safety and to protect the amenities of the area, it is necessary to require details of construction methods to be submitted for approval and followed and to control working hours on site, including when deliveries can occur.
39. In order to protect the amenities of neighbouring occupiers it is reasonable that conditions be imposed limiting noise output. While the appellant objects to the

condition requiring noise complaints to be investigated, this is not an unusual condition for wind turbines. While I understand the concern that vexatious claims could be made, it would be for the local planning authority to consider the complaint being made in the first instance and then to instigate the conditions if it considered there was a problem that required technical investigation. The condition is reasonable to protect the amenities of neighbouring occupiers.

Planning Balance

40. A number of representations relate to the ministerial statement made in June of last year. This mentioned, amongst other things, that the coalition government is making the planning process more accessible to local communities, because it works best when communities have the opportunity to influence decisions that affect their lives. It notes that current decisions for onshore wind are not always reflecting a locally-led planning system, referring to the previous government's top-down regional strategies which the present government has abolished and referring to the introduction of the National Planning Policy Framework. It notes that in order to ensure that decisions provide proper weight to environmental considerations such as landscape, heritage and local amenity, it must be ensured that decisions get the environmental balance right in line with the Framework, and as expected by the Framework, any adverse impact from a wind farm is addressed satisfactorily.
41. The minister noted that to help ensure that planning decisions reflect the balance in the framework, his department would issue new planning practice guidance to assist councils and planning inspectors in relation to forming development plans and for individual planning applications. Shortly afterwards, Planning Guidance for Renewable and Low Carbon Energy [PPG] was issued. The PPG has recently been superseded again by the new Planning Practice Guidance, but this does not introduce any material changes to policy. I have made this decision in the light of the Planning Practice Guidance, but I also refer below to references made by parties to the PPG, ministerial statement and the Framework.
42. The identification of the need for renewable energy was maintained in the PPG, and now also in the new Planning Practice Guidance, noting that increasing the amount of energy from renewable and low carbon technologies will help to make sure the UK has a secure energy supply, reduce greenhouse gas emissions to slow down climate change and stimulate investment in new jobs and businesses. Planning has an important role in the delivery of new renewable and low carbon energy infrastructure in locations where the local environmental impact is acceptable.
43. The Framework explains that all communities have a responsibility to help increase the use and supply of green energy, but that does not mean that the need for renewable energy automatically overrides environmental protection and the planning concerns of local communities. As with other types of development, it is important that the planning concerns of local communities are properly heard in matters that directly affect them and in relation to this decision local representations have been taken into consideration. However, equally there is nothing in the documents that indicates that local opposition is overriding.

44. The ministerial statements indicated that local and neighbourhood plans should be the key to delivering development that has the backing of local communities. Identifying areas suitable for renewable energy in plans would give greater certainty about where such development will be permitted. Local people should get involved in this process and actively identify where they want the wind turbines to be sited in their areas. In determining planning applications, amongst other things, cumulative impacts require attention and local topography is an important factor in determining whether wind turbines could have a damaging effect on the landscape. Great care should be taken to ensure that heritage assets are conserved in a manner appropriate to their significance, including any impact on their setting.
45. In terms of considering energy produced, the Framework notes that when determining planning applications it should not be required for applicants to demonstrate the overall need for renewable or low carbon energy and it is recognised that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions. These proposed turbines would generate the approximate equivalent of the electricity consumed by about 276 households, resulting in a reduction of 1400 tonnes per year of carbon dioxide and reduce the need to import energy. I attach substantial weight to the likely benefits of the proposed turbines in terms of renewable energy and low carbon technologies. The turbines would also have a small benefit in terms of employment associated with their construction and would provide some benefits in terms of farm diversification and be an important source of power for grain drying requirements, allowing the noisy diesel dryer to be replaced.
46. I have taken account of the impact on the living conditions of the occupiers of nearby premises, the harm to the landscape, particularly when near to the appeal site, and conflict with policies. I have given particular importance and weight to the harm related to the setting of heritage assets and to Section 66. However, the proposal would provide substantial economic benefit and cannot be reasonably located within an existing settlement and would not cause unacceptable harm to the distinctive landscape character and the impact on the setting of the heritage assets so its physical/visual impact is relatively low. While there would be some harm to the surrounding environment, the development would in terms of energy production be a very sustainable form of development and in terms of the countryside it would not change the overall character of the area, with some limited harm in relation to the effect on appearance.
47. Overall, taking account of the identified policy conflict, weight associated with Section 66 and other harm identified, I conclude that this is considerably outweighed by the benefit associated with the proposed turbines.
48. For the reasons given above I conclude that the appeal should be allowed.

Graham Dudley

Inspector

Annex A

Conditions

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.
2. Within 30 days of the First Export date, written confirmation to the local planning authority shall be provided confirming that the necessary aviation bodies such as the MoD and CAA have been given written notice of the date of completion of construction, the height above ground level of the highest structure in the development and the position of each wind turbine in latitude and longitude.
3. Prior to the erection of any turbine, a scheme for the finish and colour of the wind turbines and any external transformer units shall be submitted to and approved in writing by the local planning authority. No name, sign, symbol or logo shall be displayed on any external surfaces of the turbines or any external transformer unit other than those required to meet statutory health and safety requirements. The approved colour and finish of the wind turbines and the approved colour and finish of the anemometry mast shall be implemented as approved.
4. The permission hereby granted shall endure for a period of 25 years from the date when electricity is first exported from any of the wind turbines to the electricity grid network ('first export date'). Written confirmation of the first export date shall be provided to the local planning authority no later than one calendar month after the event.
5. Not later than 24 months before the end of this permission, a decommissioning and site restoration scheme shall be submitted to and approved in writing by the local planning authority; such scheme to include the management and timing of any works and a traffic management plan to address likely traffic impact issues during the decommissioning period. The approved scheme shall be fully implemented within 12 months of the expiry of this permission.
6. If any of the turbines hereby permitted ceases to operate for a continuous period of 12 months (unless such a cessation is due to the turbines being under repair or like for like replacements of parts) it shall be dismantled and removed from the site in accordance with a scheme which shall be submitted to and approved in writing by the local planning authority within three months of the end of that 12 month period. This shall provide for the removal of the relevant turbine and associated above ground works and the turbine foundation to a depth of at least one metre below ground, as approved under this permission. The approved scheme shall be implemented within 12 months of the date of its approval by the local planning authority.
7. All wind turbines shall be fitted at the highest practical point with 25 Candela omni-directional red lighting with an optimised flash pattern of 60 flashes per minute of 200ms to 500ms duration. These shall be maintained in operation as soon as possible after the turbine is erected and while the turbine is in position.
8. No development shall take place until a construction method statement (CMS) has been submitted to and approved in writing by the local planning authority. The CMS shall include details of:

- pollution prevention measures to be adopted during the construction phase to ensure that suitable bunding is used around fuel tanks and that excavation/construction works do not harm local sewerage, groundwater supplies, surface water quality or the quality of subsoil;
 - measures to control dust and mud arising from the development;
 - methods to reduce the effects of construction noise in accordance with BS5228;
 - emergency procedures and pollution response plans;
9. Construction of the development hereby permitted shall only take place on the site between the hours of 07:30 – 18:00 on Monday to Friday inclusive and 08:30 – 13:00 hours on Saturday. No such construction work shall take place on any Sunday or public holiday. Outside these hours, works at the site shall be limited to emergency works and dust suppression. Emergency works shall include works to make safe a turbine that is under construction. The local planning authority shall be informed in writing of any emergency works within one working day of their occurrence.
10. Delivery to the site of construction materials, and of equipment for the construction of the development, shall only take place between the hours of 07:30 – 18:00 on Monday to Friday inclusive and 08:30 – 13:00 hours on Saturday. No such deliveries shall take place on any Sunday or public holiday, unless the local planning authority has given its prior written approval for the delivery and has been given at least two full working days' notice of the proposed delivery.
11. The turbine specified within the application must be used in the development. Should an alternative turbine be installed then an amended noise survey must be submitted for consideration and the alternative turbine must be approved in writing by the local planning authority.
12. The rating level of noise emissions from the combined effects of the wind turbine generators when measured and calculated in accordance with 'The Assessment and Rating of Noise from Wind Farms, ETSU R-97' shall not exceed the background levels stated within tables 5.1, 5.2, 5.3, 5.4, 5.5 and 5.6 and the graphs in Appendix C of 'Proposed Wind Turbines, Manor Farm Adstone' (produced by SLR in support of the application dated February 2013) by more than 5 dB(A).
13. Within 21 days from receipt of a written request by the local planning authority, which sets out the date and time of the noise disturbance alleged in a complaint by the occupier of a dwelling which lawfully exists or had planning permission at the date of this permission, the wind farm operation shall at its own expense, employ a consultant approved by the local planning authority. The assessment shall consider compliance with noise limits, that are set out in condition 12, for a location that the local planning authority has agreed, in writing, is representative of the dwelling and under a range of meteorological and operational conditions, which the local planning authority has agreed, in writing, is representative of the conditions which prevailed when the alleged disturbance occurred. Within 14 days from receipt of the written request, the wind farm operator shall provide the local planning authority with information, relevant to the complaint. Within 2 months from receipt of the written request, the wind farm operator shall provide the local planning authority with the

results of the consultant's assessment. Those results shall include consideration of whether there was a tonal component to the noise at the time of the alleged disturbance. The results shall also include all data collected for the purposes of the assessment and certificates of the measuring instruments calibration.

14. The wind farm operator shall continuously log wind speed, wind direction and rainfall on the site and shall continuously log power production, nacelle wind speed and nacelle orientation at each wind turbine. The data obtained shall be retained for the duration of the planning permission. The wind farm operator shall provide the data to the local planning authority within 14 days of being requested to do so by the local planning authority.
15. Within 28 days of receiving written notification by the local planning authority that the noise limits in condition 12 have been breached, the wind farm operator shall provide the local planning authority with written details of a scheme to prevent any further breach, including a timetable for implementation of the scheme. The scheme shall be submitted for the local planning authority's written approval and it shall be carried out in accordance with the terms of that approval.