
Appeal Decision

Hearing held on 10 September 2013

Site visits made on 9, 10 and 11 September 2013

by Neil Pope BA (HONS) MRTPI

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

Decision date: 5 November 2013

Appeal Ref: APP/J3015/A/12/2186704

Grove Farm, Lenton Lane, Nottingham, NG7 2SA.

- 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 Richard Wigginton of the University of Nottingham against the decision of Broxtowe Borough Council.
 - The application Ref. 11/00484/FUL, dated 20 July 2011, was refused by notice dated 10 October 2012.
 - The development proposed is the erection of one wind turbine and supporting ancillary infrastructure.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal site lies within the Nottingham and Derby Green Belt (GB). The Council and the appellant agree that the proposal would comprise inappropriate development within the GB.
3. The Council and the appellant also agree that the proposed development requires Environmental Impact Assessment (EIA) under the provisions of The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999¹. In this regard, the application was accompanied by a detailed Environmental Statement² (ES).
4. The ES (and the various amendments) relates to a scheme for three wind turbines³ with a maximum tip height of 126.5m and associated infrastructure, including a new access track⁴. In the main, the ES does not separate out or make any distinction between the likely environmental effects of the proposal before me and the likely effects of the scheme as a whole i.e. three wind turbines. The appellant informed me where the ES does not make any distinction the environmental effects for the scheme as a whole should be taken as applying to the proposal before me. However, this is problematic as it

¹ These Regulations were in force at the time the application was submitted.

² Parts of the ES were amended, including matters relating to ecology, ornithology, flood risk, archaeology and noise, and reconsultation took place prior to the Council's determination of the application.

³ The two other turbines and the majority of the new access track, including the proposed highway works along Thane Road, would be on adjacent land owned/controlled by the appellant and within the administrative area of Nottingham City Council. A separate application for these works was submitted to Nottingham City Council and was subsequently refused. I understand that no appeal has been lodged in respect of that decision.

⁴ The proposal before me is referred to as turbine 1 within the ES, except within the ecology and ornithology sections where, rather confusingly, it is referred to as turbine 3.

runs the risk of greater significance being attributed to the likely environmental effects of the development that is the subject of this appeal.

5. Matters are further complicated as the 'red line' appeal site area does not include the proposed access works that are referred to within the ES. Furthermore, at the Hearing the appellant informed me that vehicular access to the appeal site for construction traffic is now proposed off Lenton Lane. There are no plans showing this alternative access route⁵ and the appellant accepted that there is no evidence before me to demonstrate that this would be (or could be made) an adequate means of access to the site. As I saw during my site visits, the junction arrangement of Lenton Lane/Queen's Drive roundabout would be likely, in its current form, to present considerable difficulties for vehicles delivering the large wind turbine components. This change in the proposed access arrangements should have been included as part of the ES and the Local Highway Authority, amongst others, should have been afforded the opportunity of commenting upon the appropriateness of these works.
6. As part of the appeal the appellant has submitted a planning obligation under the provisions of section 106 of the Town and Country Planning Act 1990 (as amended). This includes a mechanism for addressing any shadow flicker from the proposed wind turbine. I return to this matter within my reasoning below.
7. At the start of the Hearing the Council informed me that there was an error in the completed Appeal Questionnaire. Its representative informed me that the proposal would affect the settings of a number of listed buildings.

Main Issue

8. Whether the harm by reason of the inappropriate development within the GB and any other harm, having particular regard to the impact upon: the openness of the GB; the character and appearance of the area; the setting of heritage assets, including several listed buildings and two registered parks and gardens; the living conditions of neighbouring residents and; the likely impact upon the deliverability and viability of the Boots Campus Strategic Development Site, would be clearly outweighed by other considerations, having particular regard to: the wider benefits of producing electricity from a renewable source and; the contribution the scheme would make towards meeting the University of Nottingham's carbon reduction targets, so as to amount to the very special circumstances necessary to justify permitting the development.

Reasons

Planning Policy

9. The development plan includes the Broxtowe Local Plan 2004 (LP). Policy E1, amongst other things, requires new development to retain a high standard of amenity for occupiers of neighbouring properties and respect the character of its setting. Policy E8 restricts development in the GB to specified categories of 'appropriate development'. As the proposal is inappropriate development within the GB it conflicts with the provisions of this policy. Under policy E25 renewable energy schemes are permitted where, amongst other things, they would not harm residential amenity or landscape quality and character.

⁵ This access lies within the administrative area of Nottingham City Council.

10. The above LP policies are broadly consistent with the provisions of the National Planning Policy Framework⁶ ('the Framework'). However, 'the Framework' advises that very special circumstances for permitting development within the GB (where potential harm to the GB is clearly outweighed by other considerations) may include the wider environmental benefits associated with increased production of energy from renewable sources.
11. The Broxtowe Borough Aligned Core Strategy (CS) was submitted for Examination in June 2013. Policy 1 includes a requirement for development to mitigate against climate change and contribute to national and local⁷ targets on reducing carbon emissions. Policy 2 sets out the spatial strategy. This includes a focus on urban regeneration and housing on part of the adjacent Boots campus site⁸. Policy 7 provides further support for the redevelopment of the Boots campus and recognises that it has been designated as part of an Enterprise Zone. Policy 11 includes a requirement to conserve and enhance the settings of heritage assets and elements of the historic environment such as canals and the literary heritage associated with D H Lawrence.
12. The above CS policies are also broadly consistent with the provisions of 'the Framework'. As the Hearing sessions into objections to the above policies have yet to be held and the CS Inspector has yet to report, these policies can only be given moderate weight in determining this appeal.
13. In 2007 the Council adopted, for development control purposes, a 'Statement of Development Principles for the Boots Campus' (SPG). This includes an indicative layout and principles for the redevelopment of this adjacent site. This SPG has been drawn up in conjunction with Nottingham City Council and Boots and was subject to a process of stakeholder consultation which included the University of Nottingham. The indicative layout shows a housing quarter adjacent to the Nottingham and Beeston Canal. Whilst there is a broad level of agreement between the various local authorities and landowners concerning the redevelopment of the Boots campus, this SPG does not form part of the existing or emerging development plan. It can only be given limited weight.
14. In determining this appeal I have also taken into account the Government's planning practice guidance for renewable and low carbon energy that was published in July 2013, as well as the Ministerial Statements⁹ of 6 June 2013.

Other Documents

15. I have also taken into account the provisions of various Acts, Strategies, Plans and Directives relating to renewable energy. These include the Stern Review¹⁰ and the Climate Change Act 2008, which establishes a long-term framework to tackle climate change. The Act aims to encourage, through legally binding targets, the transition to a low-carbon economy, with a reduction of at least 34%¹¹ in greenhouse gas emissions by 2020 and at least 80% by 2050.

⁶ At the heart of 'the Framework' is a presumption in favour of sustainable development. Paragraph 93 advises that supporting the delivery of renewable energy is central to the economic, social and environmental dimensions of sustainable development. 'The Framework' also advises that the GB and heritage assets must be protected.

⁷ The Council informed me that there were no relevant local targets in respect of renewable energy.

⁸ This includes the adjacent Lilac Grove Sewage Treatment Works.

⁹ Secretary of State for Department for Communities and Local Government and the Secretary of State for the Department of Energy & Climate Change.

¹⁰ Review of the Economics of Climate Change (2006)

¹¹ Based on the 1990 baseline.

16. The UK Renewable Energy Roadmap¹² explains that the Government is committed to achieving the above targets. Amongst other things, the update to the Roadmap states that the Government is also committed to increasing the deployment of renewable energy across the UK and recognises that renewables have a pivotal role to play in the UK energy mix in the decades beyond 2020. Within the Ministerial Foreword to the update the concerns of local communities regarding onshore wind are recognised and the need to ensure projects are well-sited.

Green Belt

17. The Government attaches great importance to the GB and one of the aims of GB policy is to keep land permanently open.

18. The 'footprint' of the proposed development would be small and the turbine would have a somewhat slender form. However, the tower, nacelle, blades (including the large sweep of the rotating blades) and any external transformer¹³ would erode the openness of the GB. Although this would be limited to a 25 year period, such harm carries substantial weight¹⁴ in the determination of this appeal.

19. I agree with the appellant that wind turbines are not an urban form of development and are now widely found throughout the countryside. The proposal would not conflict with the GB purpose of safeguarding the countryside from encroachment. My findings in respect of the GB purpose of assisting in urban regeneration are set out below under the Boots Campus Strategic Development Site (BCSDS).

Character and Appearance

Character

20. The appeal site comprises agricultural land on the edge of Nottingham and within the floodplain of the River Trent. The Nottingham and Beeston Canal runs to the north with some residential and industrial areas, including sizeable industrial buildings and the BCSDS¹⁵, beyond. The River Trent flows to the south of the site with Clifton Village and Clifton Grove beyond.

21. The site lies within the Trent Valley local landscape character area¹⁶ (LCA), the character of which is heavily influenced by the power generating industry. This includes rows of tall electricity pylons¹⁷ and the imposing presence of the distant Ratcliffe-on-Soar power station¹⁸. The area is also characterised by recreational uses, including river and canalside paths. Some of the University's sports pitches adjoin the eastern edge of the site and the boundary of the LCA.

22. As I noted during my visits, within the daytime there is much noise and considerable activity in and around this part of the LCA. This includes movement across the landscape/townscape, including vehicles travelling on

¹² Department of Energy & Climate Change July 2011 ('the Roadmap'), which was updated in December 2012.

¹³ The appellant informed me that a substation building would not be required for a single wind turbine and there may be scope to include the transformer or similar plant within the turbine tower.

¹⁴ In accordance with paragraph 88 of 'the Framework'.

¹⁵ I was informed that two industrial chimneys on this site are about 38m high.

¹⁶ As defined in the Greater Nottingham Landscape Character Appraisal (2009).

¹⁷ I was informed that these pylons are about 50m high.

¹⁸ I estimate the respective heights of the chimney and the eight cooling towers to be about 200m and 120m.

- raised sections of main roads. The level of activity is likely to vary throughout the day, with additional activity when the sports pitches are in use.
23. This is not an unpleasant area of urban fringe and the river and canalside paths provide relief from the built-up area. It is clear to me from the representations that this part of the Trent Valley is valued by many residents. This has been accounted for within the appellant's detailed assessment¹⁹ of the area. There is no cogent evidence or other LVIA to indicate that the appellant is wrong to describe the landscape sensitivity of this LCA as medium-low.
24. The site is also in close proximity to areas of differing townscape. This includes Clifton Village and Clifton Grove on the southern side of the river. The parks, open spaces, trees and listed buildings in this area combine to create a very attractive townscape. Within Clifton Grove and around Clifton Hall and the Church of St. Mary The Virgin there is a sense of tranquillity (both visual and noise). This adds considerably to the quality of the townscape. I concur with the assessment within the LVIA that this townscape is of high-medium sensitivity. The LVIA also assesses some other neighbouring townscapes, including Beeston and Nottingham (West), and finds these areas to also be of high-medium sensitivity.
25. The proposed development would result in a very small loss of agricultural land. After a short period of time the 'internal' access track²⁰ through the existing sports pitches and the proposed crane hardstanding could, after the turbine has been erected, be returned to their existing uses. This would not result in any significant harm to the fabric of the landscape.
26. A development which is intended to generate electricity, would not, in principle, be uncharacteristic of this particular LCA. Given also the existing vertical elements in the surrounding landscape/townscape and the extent of activity/movement within the area, the site rather lends itself to accommodating a tall, slender structure that includes some moving parts.
27. However, the height of the proposed wind turbine would be very much taller than any existing nearby structure or landscape feature. It would tower above the nearest buildings, rows of pylons and the stacks on the BCSDS, as well as the riparian trees. It would dwarf existing landscape and townscape features.
28. Within about 1km of the site the very tall height of the turbine and the movement of its blades would result in a very extensive and highly noticeable change to the landscape. It would dominate the experience of and compromise the scale of the landscape. The proposal would also add to the existing clutter of pylons, poles and wires in this area of recreational and amenity open space and disrupt the character of this valley landscape. From the neighbouring areas of townscape the turbine would overwhelm the human scale of nearby residential properties and markedly change the suburban character of these areas. These changes to the landscape/townscape character would be harmful and at odds with the provisions of LP policies E1(f) and E25(b).
29. From over 1km or more away the proposal would continue to result in highly noticeable changes to the character of the landscape and townscape, including breaking the distant skyline from some areas of the city. However, with

¹⁹ Set out within the Landscape and Visual Impact Assessment (LVIA) that forms part of the ES.

²⁰ As I have noted above, there are no details before me of any works to Lenton Lane or alterations to the public highway. I am unable therefore to comment upon the landscape/visual impact of any such works.

increasing distance from the turbine the harmful impact upon the scale and experience of the area would diminish.

Appearance

30. Within 1km of the site the proposed wind turbine would create a major new focus in views along this part of the Trent Valley. It would appear as a very large industrial element that was out of scale with existing landscape and townscape features and would dominate these views. The rotating motion of the blades would draw the viewer's eye and in some views would 'clash' with the existing 'wirescape' and increase the sense of visual disturbance. Whilst some people would perceive it to be an elegant and acceptable addition to the appearance of the area, many others would be likely to find it a highly incongruous, large scale industrial element that would detract from their enjoyment and experience of this part of the Trent Valley. From some neighbouring residential areas the imposing vertical scale of the turbine would be at odds with views of rooftops and the human scale of the townscape.
31. At distances between 1-5km the proposal would create a distinctive, major new visual focus. The height of the turbine tower and the motion of the turbine blades would draw the eye and for many people would appear as an incongruous element that would harm the appearance of the area. However, beyond 5km the combination of distance, intervening topography and townscape would markedly diminish the visual impact of the scheme. In some of these more distant views the slender form of the proposal would be far less prominent than the power station at Ratcliffe-on-Soar.
32. The Government recognises that modern onshore wind turbines are large structures and there will always be significant landscape and visual effects from their construction and operation for a number of kilometres around a site²¹. The above noted harmful impacts to the character and appearance of the area would also be limited to a 25 year period. I shall therefore give moderate weight to these harmful impacts when undertaking the planning/GB balance.
33. The LVIA also assesses the cumulative impact of the scheme with other permitted wind turbines within the wider surroundings. The proposal would be set apart from these other turbines by considerable distances and intervening topography and townscape would also assist in reducing the cumulative impact within the landscape/townscape. There would be no pronounced simultaneous or sequential cumulative impacts when moving through the area. I agree with the appellant's assessment that there would be no harmful cumulative landscape/townscape impact. The Council was unconcerned by this matter.

Setting of Heritage Assets

34. The Council did not withhold permission on the basis of any harm to the setting of heritage assets. Nevertheless, the proposed development would affect the setting of numerous heritage assets and in determining this appeal I must have special regard to the desirability of preserving the setting of listed buildings²².
35. The greatest impact of the proposal would be upon the settings of: Clifton Hall (Grade I); the Church of St. Mary the Virgin (Grade I) at Clifton; Wollaton Hall (Grade I); the Church of St. Mary the Virgin (Grade I) at Attenborough;

²¹ Paragraph 2.7.48 of National Policy Statement for Renewable Energy Infrastructure (EN-3) July 2011.

²² Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

- Building D6 at Boots Factory site (Grade I); Building D10 at Boots Factory Site (Grade I); Building D90 at Boots Factory site (Grade II*); the registered historic park and garden at Clifton Grove (Grade II); the registered historic park and garden at Highfields Park (Grade II*); the Clifton Village Conservation Area (CA) and; the undesignated heritage asset that comprises the section of the Nottingham and Beeston Canal that runs adjacent to the site.
36. Clifton Hall is a substantial red brick house which occupies a high defensive position overlooking the River Trent. It dates from the medieval period and was extended and remodelled in 1632 probably by John Smythson and again in 1779 by John Carr. It is set in extensive grounds that comprise Clifton Grove. This was originally planted as a carriage drive in about 1690 by Sir Gervase Clifton and became a popular beauty spot in the 19th century. The views from it were remarked upon by a number of commentators in the 18th and 19th centuries and it features prominently in 'Sons and Lovers' by D H Lawrence.
 37. Alongside Clifton Hall is the parish church of St. Mary the Virgin. This is mainly 14th century but dates from the 12th century. These listed buildings and Clifton Grove are included within the CA. As noted by English Heritage, views of these designated heritage assets as an ensemble are possible from the footpath that follows the far bank of the river. Although on the edge of the urban area, the tranquil 'green finger' of the river corridor and the dramatic wooded hillside adds to the significance of this ensemble.
 38. Whilst I was unable to gain access to Clifton Hall, I understand that there are views across the River Trent from the terraced gardens. During my visits, when the trees were in full leaf, there were limited views from the former carriage drive along Clifton Grove towards the appeal site. However, I was able to appreciate the dramatic topography of this wooded cliff and obtained glimpses towards the Boots Factory site. From sections of the riverside path within Clifton Grove I was able to clearly see the appeal site. During the winter months it is reasonable to assume that there would be more extensive views to/from Clifton Hall and Clifton Grove.
 39. The proposed wind turbine, due its proximity, height and the rotating motion of the turbine blades, would comprise an intrusive and dominant addition to this part of the Trent Valley. The introduction of this very tall, modern industrial element with moving blades would diminish the perceived scale and impact of the topography and the tranquillity of the area. This would mar the setting of the above noted ensemble of heritage assets. I agree with EH that this would result in substantial harm to the setting of very important heritage assets. Whilst this harm would be limited to a 25 year period, it would unacceptably erode the significance of two buildings which are recognised for their exceptional interest.
 40. Wollaton Hall, by Robert Smythson is one of the most important 16th century houses in England. This former country house (now museum) occupies a commanding position. From the Prospect Room there are extensive views across Nottingham and the wider surroundings, including the appeal site. These panoramic views include distant ridgelines seen across a foreground of parkland and views towards Clifton Hall and Clifton Grove. This creates a sense of grandeur and tranquillity which adds to the significance of this important building and provides an uninterrupted view towards Clifton.

41. The proposal would be seen in the mid-distance of some views from the Prospect Room. This very tall addition to the landscape would protrude above the distant ridgeline and the motion of the turbine blades would draw the eye. It would detract from the splendour and calmness of the view and interrupt views towards Clifton. However, the proposal would form a small element of the overall view and at a distance of about 3.5km it would result in less than substantial harm to the setting of Wollaton Hall.
42. From Attenborough Nature Reserve the octagonal spire of the nearby Church of St. Mary the Virgin²³ can be seen in the foreground. It comprises part of an extensive open view across this wetland area with distant views of Clifton. Whilst the significance of this listed church lies primarily in its architectural and historic fabric its spire provides a focal point within the landscape and acts as something of a 'beacon' for worship. This adds to the significance of this important ecclesiastical building. The height of the proposed turbine and the motion of its blades would draw the viewer's eye and provide a new focal point within the landscape. It would diminish the significance of the spire and erode the setting of this listed building. At a distance of about 4km it would result in less than substantial harm to the setting of this Grade I listed building.
43. The substantial 1930s flat roofed, reinforced concrete D6 (Dry) and D10 (Wets) Boots Factory site buildings by Sir E Owen Williams and the 1960s D90 Headquarters Building by Skidmore, Owings and Merrill are important 20th century industrial/commercial buildings. The significance of these buildings lies primarily in their architectural qualities and use of 20th century construction materials. At present there are open views to the south of these buildings and towards the appeal site. Whilst the appeal site does not make any important contribution to the significance of these listed buildings the height of the turbine and the large sweep of the turbine blades would, to an extent, diminish the scale of these three listed buildings. This would cause some limited harm to the setting of these designated heritage assets. However, it is not lost on me that when these buildings were erected they too would probably have been of a much greater scale than neighbouring buildings.
44. The significance of Highfields Park lies primarily as an example of an early 20th century municipal park. The design and layout is largely unchanged from its original layout by Percy Morley Horder. It was an important element of the Boots' vision of a planned community and includes a lake, 19th century planting and avenues of trees and tree-lined walks. As I noted during my visit, despite the traffic and engineering works along University Boulevard, it provides a very pleasant area for relaxation. Although the mature trees that surround the park would screen parts of the turbine the upper sections, including the motion of the blades would be visible. This would cause some limited intrusion into the setting of the park and diminish the visual tranquillity. The proposal would cause less than substantial harm to the setting of this heritage asset.
45. The proposed turbine would also dominate the setting of a section of the late 18th century Nottingham and Beeston Canal which runs to the north of the site. This undesignated heritage asset is of considerable interest not only as a historical transport route which assisted in the development and growth of the area, but also for its remaining canalside architecture/furniture. The height of the turbine and the motion of the blades would be in stark contrast to the

²³ This church dates from the 12th century and was restored in 1869.

human scale of the bridges and the linear nature of the canal itself. Whilst my decision does not turn on this matter, the proposal would harm the setting of the canal.

46. An interested party has drawn my attention to the group of buildings at Grove Farm. Although not devoid of interest, the proposal would not harm anything of significance to the setting of these unlisted buildings.
47. The harm to the setting of the above noted heritage assets would conflict with the provisions of emerging CS policy 11.

Living Conditions (Existing Residents)

48. The ES includes an assessment upon the amenity of neighbouring residents. As part of the appeal the appellant has undertaken further analysis in respect of the single wind turbine scheme that is before me. The results of this analysis reveal that the appeal scheme would have a significant effect²⁴ upon the residential visual amenity (outlook) of 204 properties within 1km of the site. These include some properties in the Beeston Rylands area²⁵ to the west of the site and some other properties in the Clifton area²⁶ to the south east.
49. During my visits it was not possible to view the site from private residential properties. However, I visited the areas where the ES identified significant effects and I have read the representations made by some of the residents within these areas. It is clear to me that many residents cherish views along and/or across the Trent Valley and some would be likely to consider any view of the proposed turbine as an unacceptable intrusion. However, views of the proposal would not in itself justify withholding permission.
50. From the evidence before me, including my visits and the detailed planning officer's report to committee, the proposal by virtue of its height and the motion of the turbine blades would detract from the outlook of many neighbouring properties. However, those properties in the Clifton area occupy more elevated ground than the appeal site and there is some intervening vegetation which, for part of the year at least, is likely to filter some views of the proposal. Furthermore, not all properties would have direct views of the proposed turbine. From many properties in the Clifton area, the proposal would form a major visual focus but would be unlikely to result in an overbearing or oppressive outlook for residents.
51. Within the ES it is acknowledged that within some of the rooms in the Peverell Hall of residence²⁷ in Clifton the proposal would be likely to create a dominant visual focus. These are likely to be the main habitable rooms within which students spend their time and the impact of the turbine could be considerable. This weighs against granting permission. However, there does not appear to be any objection to the scheme from NTU and, in my experience, students are generally more accepting of wind energy schemes²⁸.

²⁴ The analysis reveals that from some properties there would be a very large landscape magnitude of change and a resulting major impact.

²⁵ The Council has calculated that the proposed wind turbine would be approximately 650m from the nearest property in Cornwall Avenue.

²⁶ The Council has calculated that the proposal would be approximately 430m to the rear site boundaries of properties in Fabis Drive.

²⁷ This forms part of Nottingham Trent University (NTU)

²⁸ At the Hearing some students, although not residents of Peverell Hall, spoke in support of the scheme.

52. The ES also recognises that the proposal would have a large-very large magnitude of change in outlook for some residents in Leyton Crescent, Meadow Road, Maple Road, Appleton Road, East Crescent and Elswick Drive in the Beeston Rylands area. From facing rooms in some properties in these streets the scheme would comprise a dominant visual focus. It would be likely to considerably harm the outlook for numerous neighbouring residents. This would be at odds with the provisions of LP policies E1(a) and E25(a) and weighs against granting permission.
53. Some residents have also expressed concerns that the proposal would result in harmful noise disturbance. Whilst noise from the operation of the turbine would be apparent in some neighbouring properties the ES, which includes the results of noise monitoring surveys, demonstrates that the proposal would be within acceptable limits²⁹. The appellant also informed me that the site conditions would be unlikely to result any undue risk of 'Excess' or 'Other' Amplitude Modulation. I note that the Council did not withhold permission on the basis of any noise disturbance to neighbouring residents.
54. Under certain conditions and at particular times of the year, the proposal could cause shadow flicker. If this were to arise it could harm the living conditions of some of neighbouring residents. However, the above noted planning obligation includes a mechanism to ensure that the operation of the turbine would not cause harmful shadow flicker. The Council and the appellant agree that this obligation accords with the provisions of paragraph 204 of 'the Framework' and I have taken it into account in determining the appeal. I note that the Council did not withhold permission on the basis of any harmful shadow flicker.

The Boots Campus Strategic Development Site (BCSDS)

55. The proposed development would be in close proximity to this 40 ha strategic site³⁰. The Council and its partners, including Alliance Boots, are putting much effort and resources, including securing considerable finance, into the comprehensive redevelopment of this sizeable area of largely unused, previously-developed urban land. The aim and ambition, through the emerging CS and the above noted SPG, is to deliver very considerable economic, social and environmental benefits for the local area. This includes limiting the amount of 'greenfield' and/or GB land that may be needed to meet the future growth and development needs of the area. I understand the concerns of the Council and its partners that anything which could prejudice the redevelopment of the BCSDS should be resisted. I also recognise that any development on this site would need to be designed to respond positively to the canal and the wider surroundings.
56. Whilst in no way belittling the efforts and ambition of the Council and its partners, the emerging CS has yet to be found sound and there are severe constraints to be overcome in the redevelopment of the BCSDS. These include infrastructure works, land contamination and flood risk. Furthermore, planning permission has yet to be sought or obtained for the redevelopment of this site and the public consultation exercise to inform the masterplan was only due to commence the day after the appeal Hearing was held. Those acting on behalf of Alliance Boots also informed me that nothing had been agreed with any housebuilder or developer who may be interested in providing homes on part of

²⁹ The Assessment & Rating of Noise from Wind Farms (ETSU-R-97).

³⁰ Those acting on behalf of Alliance Boots have calculated that the site is about 230m from the BCSDS.

the BCSDS. The layout in the SPG is illustrative only and the redevelopment of the BCSDS would also need to take into account any off-site constraints.

57. I appreciate the enthusiasm and drive of those responsible for securing the redevelopment of the BCSDS. However, it is very far from certain that housing would be delivered on this site³¹ and/or in the area indicated in a document which does not form part of the development plan. Notwithstanding the Enterprise Zone status, it could take many years to resolve the complex matters that are likely to be involved with determining and agreeing the sale price for the land, concluding planning obligations and securing all the relevant permissions. These would all need to be in place before any homes could be built. Whilst a planning application is shortly to be submitted for the proposed road(s) through the BCSDS this would not guarantee delivery of any housing.
58. It would be unreasonable to withhold permission for the appeal scheme which is capable of being provided now. In effect, the Council and its partners are seeking to prevent a development on the basis of something which has yet to be determined on neighbouring land and that may or may not take place at some time in the future. If I were to follow this approach it would be tantamount to creating a buffer around the BCSDS. Moreover, as argued by the appellant, if the proposal before me was permitted, it is very far from certain that housing on the BCSDS could not be designed/located to provide a satisfactory outlook for incoming residents. It has not been demonstrated that the appeal scheme would prejudice the delivery or viability of the BCSDS. There would be no conflict with the provisions of CS policies 2 and 7.

Benefits of the Scheme

59. The appellant has informed me that the proposal would have a capacity factor of between 25-27% (generating up to 2.5MW of electricity). It would offset several thousand tonnes³² of carbon dioxide emissions a year and generate sufficient electricity for the domestic needs of many homes³³. Whatever the actual figures, 'the Framework' advises that even small-scale renewable energy projects provide a valuable contribution to cutting greenhouse gas emissions.
60. The proposal would assist in tackling climate change and help meet national targets for reducing greenhouse gas emissions. It would also increase the security of supply and would contribute towards meeting the appellant's own carbon reduction targets³⁴. The proposal would accord with the objectives of emerging CS policy 1. These benefits of the scheme can be given substantial weight in determining this appeal.
61. The scheme would reduce the University's carbon footprint and enhance its 'green credentials'. This could be a factor that is taken into account by some students when selecting their higher education options. It would also reduce the University's fuel bills and, in so doing, strengthen the finances of a major employer that makes an important contribution to the local economy. The construction phase of the development could also provide some limited support to the local construction industry. Whilst this would be unlikely to assist in

³¹ The Strategic Site Schedule to the emerging CS indicates that the timetable for delivery is 6+ years.

³² The ES specifies a figure of 6,203 tonnes of CO₂ emissions/year based on a three turbine scheme.

³³ The Non-Technical Summary for the ES specifies a figure of 3,127 homes for a three turbine scheme.

³⁴ Set out in the University's Carbon Management Plan, which it is obliged to produce by the Higher Education Funding Council of England.

urban regeneration, these economic benefits of the scheme are important considerations that also weigh strongly in favour of an approval.

Other Matters

62. As set out within the appellant's Flood Risk Assessment, the appeal site lies within an area classified as Flood Zone 3b (functional floodplain of the River Trent) by the Environment Agency (EA) and is at significant risk of flooding. However, the Technical Guidance to 'the Framework' includes wind turbines as essential infrastructure and an appropriate use within such areas where, amongst other things, they would be flood-safe, not impeded flows or not result in any net loss of floodplain storage.
63. The appellant has satisfied the EA that the proposal would be flood-safe, would not impede flood water flows or result in a harmful loss of floodplain storage³⁵. The EA has not objected to the scheme and must therefore be content that it would provide wider sustainability benefits to the community that outweigh any flood risk. There is no technical evidence to justify withholding permission on flood risk grounds and the Council has not raised this as an issue.
64. Some species of birds could be at risk of collision with the wind turbine. This includes a pair of Peregrine Falcons, Greylag Geese and Skylark. I also note that large flocks of Starling roost within the area. There is also a risk that the motion of the turbine blades could affect some species of bats, including Noctule, which are known to be at high risk of collision to wind turbines. However, the appellant's ecological/ornithological assessments of the scheme, which are based on detailed surveys of the area, indicate that the risks are very small and would be unlikely to harm the local populations of birds and bats. The proposal would also include some habitat enhancement. On balance, the scheme would be unlikely to harm nature conservation interests.
65. I also note the concerns of some residents that the proposal could affect property values and compromise their health and well-being. Whilst I do not doubt that these concerns are genuine, they appear to be based on perceived fears rather than any detailed assessment of the appeal scheme. There is no cogent evidence to substantiate such concerns and the Council was unconcerned by such matters when it determined the application.
66. There is considerable public interest in this proposal. This includes numerous representations both for and against the scheme. Whilst I have taken all of these representations into account, local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission. Although there appears to be a greater volume of opposition to the scheme, I was unimpressed by the derisory remarks that were made, on occasion, by a few opponents when some supporters chose to make their views known to me.
67. The representative from East Midlands Airport confirmed that whilst there would be concerns over the impact³⁶ of a scheme for three 126.5m high wind turbines the Airport did not object to the appeal proposals.
68. I note the findings of other Inspectors in the appeal decisions that have been drawn to my attention. However, there are material differences with the scheme before me. Each case must also be determined on its own merits.

³⁵ Ground levels would be lowered by 50mm within a 45 m diameter of the turbine to compensate .

³⁶ Upon the Airport's Primary Surveillance Radar

69. My findings on these other matters do not weigh against granting permission.

Planning/Green Belt Balance

70. Inappropriate development within the GB is, by definition, harmful to the GB. I have also found above that the proposal would erode the openness of the GB. This harm must be given substantial weight in determining the appeal. I have also identified other harm to the character and appearance area, the living conditions (outlook) of some neighbouring residents, as well as harm to the setting of some heritage assets, including buildings of exceptional interest. As I have noted above, special regard must be given to the desirability of preserving the setting of listed buildings. I have also found that the scheme would conflict with the provisions of the development plan. There is a great weight of evidence to justify withholding permission.
71. On the other hand, there are important benefits of the scheme to be weighed in the balance. These include the wider environmental benefits associated with increased production of energy from a renewable source, support for the local economy and increasing the security of supply. I am also mindful that the harm would largely be reversible and limited to 25 years.
72. When all of the above matters are weighed together the situation is evenly balanced. However, for inappropriate development to be allowed within the GB the benefits/other considerations must clearly outweigh the totality of the harm. In this finely balanced situation the totality of the harm is not clearly outweighed. As set out in 'the Framework'³⁷, very special circumstances will not exist unless the potential harm to the GB by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. In this instance, very special circumstances necessary to permit this scheme do not therefore exist. As a consequence, permission must be withheld.
73. Even if the planning balance had tipped in favour of the appellant, the revisions to the site access arrangements and the issues surrounding the ES that I have noted above would preclude me from being able to grant permission.

Overall Conclusion

74. Given all of the above, I conclude that the appeal should not succeed.

Neil Pope

Inspector

³⁷ Paragraph 88.

APPEARANCES

FOR THE APPELLANT:

Mr D Cassells BA (Hons), DipTP	Director (Planning), AECOM
Mr R Wigginton	Appellant
Mr C Jagger	University of Nottingham
Mr S Mackilligin	AECOM
Ms R Mauritzen	AECOM
Mrs D Preston	AECOM
Mr S Ralph	EMEC Ecology
Mr R Anderton	EMEC Ecology

FOR THE LOCAL PLANNING AUTHORITY:

Mr R Dawson	Senior Planning Officer
Mr S Saunders	Planning Policy Manager
Miss R Fallon	Environmental Health Technical Officer

INTERESTED PERSONS:

Mrs J Gabrilatsou	Associate Director, Jones Lang LaSalle acting on behalf of Alliance Boots
Mr J Whyld	Project Manager, Alliance Boots Enterprise Zone
Mr T Garratt	Inncs England, Chartered Surveyors
Cllr F Prince	Ward Member Broxtowe Borough Council
Mr C Fletcher	Principal Advisor, English Heritage
Mr R Hawthorn	Resident
Mr and Mrs Caulton	Residents
Mr D Eley	Resident
Mr K Town	Bramcote Conservation Society
Mr M A Olatokun	Students Union Environmental Officer
Mr A McGregor	Resident
Mr and Mrs Wright	Residents
Mr W Fuller	Safeguarding Officer, East Midlands Airport
Mr S Potter	Resident
Mr D Davis	Resident
Mr E Duckett	Clifton Grove Community Group
Mr Kurcewicz	Western Power Distribution
Mr J Mason	Resident

LIST OF DOCUMENTS SUBMITTED AT THE HEARING:

Document 1	Bundle of listing descriptions of various heritage assets.
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Document 2	A3 size copy of photomontages/wireframes.
Document 3	Emerging CS Strategic Site Schedule and Plans.
Document 4	Existing layout plan of the Boots Campus.

If you require an alternative accessible version of this document (for instance in audio, Braille or large print) please contact our Customer

Services Department:

Telephone: 0870 333 1181

Fax: 01793 414926

Textphone: 0800 015 0516

E-mail: customers@english-heritage.org.uk