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# Appeal Decision

Site visit made on 20 January 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: 18 March 2014**

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**Appeal Ref: APP/Q1153/A/13/2195838**

**Land east of North Beer Farm, Spreyton, Devon EX17 5AP**

- 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 Powerhawk Limited against the decision of West Devon Borough Council.
  - The application Ref 03085/2012 - FULL, dated 2 August 2012, was refused by notice dated 4 December 2012.
  - The development proposed is a single wind turbine with a maximum blade tip height of 77m, new access track and associated infrastructure.
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## Decision

1. The appeal is dismissed.

## Main Issues

2. The main issues are:
  - The effect on the character and appearance of the surrounding area, particularly relating to the area north of Spreyton.
  - The effect on the significance and special architectural and historic interest of nearby listed buildings and on Dartmoor National Park.
  - The effect on the living conditions of nearby occupiers, with reference to visual impact.

## Reasons

3. The development plan includes the West Devon Borough Council Local Development Framework Core Strategy Development Plan Document [CS] and the West Devon Borough Council Local Plan Review [LP]. LP Policy NE10 indicates that development within the countryside outside of settlement limits or not otherwise in accordance with policies or allocations in the Plan will not be permitted unless it provides overriding economic or community benefit and cannot be reasonably located within an existing settlement and does not cause unacceptable harm to the distinctive landscape character and the best and most versatile agricultural land is preserved.
4. LP Policy BE3 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. CS Policy SP18 aims to

- protect the setting of heritage assets, including listed buildings, conservation areas and scheduled ancient monuments.
5. CS Policy SP1 relates to sustainable development, noting that West Devon requires a long term sustainable development strategy for tackling the implications of climate change and future growth in line with global and national policy and this is consistent with the aims and objectives of the Framework. It notes development should be undertaken in a sustainable manner, including protection and enhancement of the countryside and to ensure protection and enhancement of the character of the existing built environments and settings of many of the boroughs, towns and villages. It also requires protection of natural landscapes, including Dartmoor National Park and protection of historic and cultural features. Account is also to be taken of the needs of all individuals in the community to promote health, safety and social well being and improve quality of life indicators.
  6. CS Policy SP3 notes that proposals for development involving the provision of renewable and/or low carbon technologies and ancillary items will be supported and encouraged, except where proposals would have unacceptably adverse effects which are not outweighed by the local and wider environmental, economic, social and other considerations of the development. Appropriate measures are to be taken to mitigate any adverse impact on the amenities of the occupiers of nearby properties during the operational lifespan and decommissioning. There should be provision for the protection, preservation, and/or mitigation for any features of strategic, cultural, historic and archaeological importance, including landscape character. When considering assessments regard will be given to the wider benefits of providing the energy from renewable sources as well as the potential effects at the local scale.
  7. CS Policy SP17 notes that on sites outside of an Area of Outstanding Natural Beauty or Dartmoor National Park, particularly on the fringe areas, development will not be permitted that would damage their natural beauty, character and special qualities or prejudice achievement of their designated purposes. The quality, character, diversity and local distinctiveness of the natural and historic environment will be conserved and enhanced.

### ***Character and Appearance***

8. The appeal site is in landscape character area 1D 'Inland Undulating Uplands'. This consists of open rolling and sloping uplands in mainly pastoral cultivation, with a little arable (usually on flatter areas), wooded parkland estates and small discrete areas of rough ground or scrub locally. The field pattern is mixed, ranging from small or very small pasture fields, in a sub-regular pattern and with some tree rows on the more sloping ground, to medium to large, more regular occasionally arable fields without trees on flatter ground, giving an open downland character locally. Isolated houses and farms are typical, often away from view down private drives. This is a rather 'empty' landscape, with a generally extensive network of narrow, gently winding lanes with verges, open to the sky but confined by hedgebanks and occasional hedgerow trees of mixed species.
9. Despite a little tourism development and arable cultivation, this is a very traditional open, large-scale rural landscape with long views out in all directions. Management guidelines indicate, in all areas of open countryside, resisting development which is uncharacteristic and visually intrusive over wide

areas, and that development should reinforce the traditional landscape character. The character assessment promotes conserving and strengthening the area by having regard to the potential impact on and dilution of the local landscape character through the introduction of renewable energy sources such as wind farms.

10. The proposed turbine would be on relatively high ground, located just on the down slope, with the land generally sloping away from the appeal site to the northern and southern sides. This means that there would be many near and distant views of the turbine. It would inevitably be a prominent feature in views, but the turbine would be a well designed, aero dynamic structure of slender shape and 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.
11. Generally when travelling along the roads and paths such views would be sporadic, with much of the distant and close views prevented by hedgebanks and/or vegetation. Near to the appeal site the field is relatively open and there would be close views of the turbine when passing along the adjacent lanes. Even though views would be intermittent, there would still be many viewing points from roads and footpaths. A particular point identified for viewing was Hillerton Cross. From here there would be views of the turbine with Dartmoor National Park seen in the distance, but limited to some extent by surrounding vegetation.
12. However, I acknowledge there would be many areas where some viewing of the turbine with Dartmoor National Park behind would occur. The turbine would be silhouetted on the skyline, with Dartmoor in the background. However, from Hillerton Cross, the turbine would be seen as a small feature and although an obvious one, would not be over dominant or impede views beyond, to the National Park. The National Park would remain the primary and most impressive and imposing aspect of views. I also acknowledge that the turbine would be visible from the National Park. However, at this distance views out would be of a very wide open and varied landscape, where a number of turbines would be visible, but neither together nor individually would they change the character of the surrounding countryside or be so clustered that they would dominate. Overall, given the distance from the appeal site, I consider that the turbine would not damage Dartmoor National Park's natural beauty, character or special qualities, or prejudice achievement of its designated purpose. In this respect it would accord with the aims and objectives of CS Policy SP17.
13. However, I accept that, particularly in close proximity to the turbine, it would be dominant and imposing and while not changing the character of the landscape would cause significant visual intrusion, albeit not over a wide area, and limited by topography and vegetation and some limited weight should be attached to this visual harm, which would not accord with all the aims and objectives of CS Policy SP1, particularly to protect or enhance the countryside. Taking account of Section 38(6) of the TCPA, I attach appropriate weight against the scheme in relation to this.
14. With each introduction of a wind turbine there is the possibility of some cumulative change in the appearance of the countryside. The landscape and visual report looks at the cumulative effect. I have taken into consideration

those noted in representations, particularly Den Brook, where there will be a cluster of nine 120m high turbines and Great Cocktree, a single 34m high turbine. There would be intervisibility between these turbines and the proposal, and these will also be seen together from many view points. However, because of the size and number, Den Brook is likely to be the most noticeable.

15. The other turbines that are visible in relation to the appeal site are seen as being at a reasonable distance away, as would the proposed turbines at Den Brook. In my view, because of their distance and intervening landscape the various wind farms would be seen as unconnected features and would not be perceived to have a cumulative impact in combination with the proposed turbine and together would not change the overall rural character of the area. Given the limited impact the proposal would have on the character of the area, it is unlikely to have a material impact on tourism.
16. I have also taken into consideration those journeying through the landscape and again there would not be any significant sequence of turbines passed or viewed from nearby roads that would result in an unacceptable cumulative impact. Some views of the turbines would be seen from the Two Moors way and from the Tarka Trail. In each case the various turbines would be seen to be separated by a significant distance and would not, in my opinion, have an adverse cumulative impact on users of those paths.
17. I conclude, taking into consideration other turbines and the proposed turbine, that this proposal would be reasonably located and spaced in relation to other turbines and features. Nevertheless, I acknowledge that there would be some harm in relation to the effect on the appearance of the area with limited blending in and enhancement as aimed for by CS Policy SP1 and this needs to be balanced against the potential benefits.

### ***Heritage Assets***

18. When considering applications that may affect a listed building or its setting, section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to be paid to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. 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.
19. 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.

20. A detailed assessment of the impact of the turbine on heritage assets has been provided in the Landscape and Visual Report.
21. Stockhay is a grade II listed building. The listing describes this as being formerly a small farmhouse and linhay from about the mid-late C17 with the linhay mid C19. The Landscape and Visual Assessment indicates the building to be about 417m from the turbine and concludes that there would be high magnitude effects on the landscape and visual setting of this medium sensitivity building. It notes that the turbine would become the defining feature in the landscape setting of the building. The significance of effect identified would be moderate/substantial. I generally concur with this assessment and consider it to be a significant issue as the main elevation of the building fronts almost directly towards the turbine location.
22. The turbine, because of its height, would be very dominant at this distance and would seriously affect the setting of the property and also seriously affect views from the road, through the rear gateway, past the property, as the turbine would be seen immediately beyond the thatched roof. When seen in the general context of the wider surrounding area the turbine would not materially change the character of the surrounding countryside, but in this proximity it would completely dominate the listed building.
23. While I accept that much of the significance of the listed building relates to its history and construction, seeing it in the context of its surroundings is an important aspect of its significance. In my view, at this distance the turbine would be overly dominant and overbearing and this impact on the building and its setting would have a major impact on the overall significance of the listed building. In terms of the Framework this would be classified as 'less than substantial' harm, nevertheless it is still major harm that needs to be taken through to the balance in relation to public benefits.
24. Coombe Farmhouse is a grade II\* listed building. According to the list description this is a former Dartmoor Longhouse dating from C16. The significance of the building relates to its listed status, its history, design, construction and relationship with the surrounding farmland. The construction is described in detail and is clearly very important in relation to the building's significance. The landscape and visual report indicates that effects up to medium magnitude would arise on this medium to high sensitivity asset, with the effect being of moderate to moderate/substantial significance.
25. While I concur that there would be some impact on the setting of the listed building, because part of the turbine would be visible from Coombe Farmhouse, I do not consider that impact would be great. The turbine would be a considerable distance from Coombe Farmhouse and would be seen behind the group that includes North Beer Farm and intervening vegetation. There would only be glimpsed views, and overall the character of the countryside would remain unchanged. I conclude that the limited impact on the setting would result in small overall impact on the significance, or ability to appreciate the significance, of the listed building, and in terms of the Framework would be classed as 'less than substantial' harm, and would be limited harm.
26. Week Farmhouse, a grade II listed building, while being reasonably close to the appeal site, is down the hill from it. The landscape and visual report indicates that there would be medium to high magnitude effects to the medium sensitivity building, resulting in effects of moderate significance. In my view,

the significance of the listed building relates to its listed status, its history, design and relationship with the surrounding farmland. In that respect I consider that the land at the appeal site is part of its setting. However, its contribution to the significance of the listed building and its special architectural and historic interest is limited, being a small part of the landscape to which it is associated.

27. As noted above, the proposal would not change the character of the area. I appreciate that the turbine would be prominent when travelling along the drive, particularly going away from the house, but the effect of the proposal on the overall setting would be limited, and the corresponding effect on the significance of the listed building would be small. The house itself is a little down the hill from the turbine and effectively faces away from it. I conclude that the limited impact on the setting would result in very little impact on the ability to appreciate the overall significance of the listed building, and in terms of the Framework would be classed as 'less than substantial' harm, with limited weight to be attached to it.
28. I have also taken into consideration a number of other listed buildings and conservation areas identified in the landscape and visual report and as identified by other parties. These include the Church of St Michael (Grade II) in Speryton, The Barton (Grade II\*) and the Old Vicarage and other listed buildings in Spreyton. While objectors note that there is some consideration that Spreyton should be a conservation area, it is not at present and does not have that status. Buildings such as the church and The Barton are within the village and have buildings opposite that would interrupt much of the view to the turbine generally, although some views would remain, such as from the church tower/spire. The turbine would also be seen in the foreground when approaching the village from the turbine direction, so the turbine would in some locations be a prominent feature in those views. However, the village is a reasonable distance from the turbine, and in my opinion the impact on the setting of the listed buildings in Spreyton and on the village itself would be limited and would not significantly affect the setting and significance of those listed buildings and their settings would be preserved.
29. There are conservation areas at Bow and Zeal Monachorum, which technically are in the zone of theoretical visibility. However, again the turbine would be so far from these that, taking into account that the overall character of the countryside would be unchanged, the limited impact of the turbine on appearance at this distance would have no material impact on the setting and significance of the conservation areas.
30. Hillerton Cross, which is a Grade II listed building probably dates from about C15 and marks the cross roads. The significance and special architectural and historic interest relates to its history and to the routes that it is associated with, which will include the wider landscape, although I consider that the landscape immediately adjacent is the most important. There is reasonable screening around the junction with hedges and vegetation, interrupting views. However, the turbine would be visible, but at a considerable distance so would not have any significant impact on Hillerton Cross, its significance or ability to appreciate its significance. I acknowledge that there are some views towards Dartmoor National Park from here, but as noted above the impact of the turbine at this distance would be low.

31. I have also had regard to Castle Drogo, an important listed building, but given the distance from the appeal site, the turbine would be a very small feature in the landscape, and neither alone nor cumulatively with other turbines, would it have a material impact on the setting, such that the significance of this important heritage asset would be affected.
32. Having had special regard to the desirability of preserving surrounding listed buildings and heritage assets, I consider that the impact on the significance of Stockhay, while being classified in accordance with the Framework, as 'less than substantial', would still be major and the Framework notes that great weight should be given to a heritage asset's conservation along with the 'considerable importance and weight' associated with Section 66. With regard to other heritage assets, generally I consider that the harm would come under the term identified by the Framework as 'less than substantial', but that a small degree of weight should be taken forward together with weight associated with Section 66, into the planning balance with public benefits. Overall, I consider that great weight should be attached to the harm the proposal would cause when balancing against public benefits, mainly because of the impact on Stockhay.

### ***Living Conditions***

33. As noted above under Heritage Assets, Stockhay is a little over 400m from the turbine location. The front of Stockhay, which is the major elevation of the property and a significant part of its amenity area, faces out towards the agricultural land, and although there is some limited intervening vegetation, occupiers would have direct views of the proposed turbine from many of the windows in their residence and from the grounds. It would be seen as a very prominent feature in the outlook from the premises. The landscape and visual report indicates that for this and other nearby properties there would be high to very high magnitude effects of moderate/substantial and substantial significance for residents.
34. An appropriate approach is to question whether the proposal would affect the outlook of residents to such an extent as to be so unpleasant, overwhelming or oppressive that the dwelling would become an unattractive place to live. As noted above, the overall character of the landscape will not be changed but the turbine would be a very dominant feature. In my opinion, because of the proximity of the turbine, it would clearly alter the outlook substantially. Taking into account the height of the turbine, its visibility from the main front elevation and much of the grounds, I conclude that the turbine would be substantially unpleasant, overwhelming and oppressive for the occupiers of Stockhay, and it would become an unattractive place to live.
35. I have taken into consideration the nearby terrace of properties. While there would be a similar potential effect on these, it would be substantially less than for Stockhay, as these are orientated away from the turbine. While there would be some views from the rear areas of the properties, the turbine would not be unacceptably orientated in relation to these, such that the overall impact would be unacceptable. Nevertheless, some harm should be carried forward to the overall balance.
36. Other nearby properties have also been identified as having views of the turbine, including Week Farm and Coombe Farmhouse.

37. Week Farm is a little further away than Stockhay, but again the landscape and visual report indicates high to very high magnitude of effects of moderate/substantial to substantial significance. However, Week Farm is down the hill from the turbine and the elevation facing the turbine does not have a significant number of windows. There would be views of the turbine from the rear of the area, but in my opinion the impact on this more utilitarian area would not be substantial, with the principal garden area appearing to be on the other side of the property. The turbine would be prominent when entering and leaving the property, but this would be a passing view and I attach limited weight in relation to the impact it would have here. I do not consider the remaining views of the turbine would be so unpleasant, overwhelming or oppressive that Week Farm would become an unattractive place to live. Nevertheless, it will have an impact on the residents as noted in the assessment that needs to be taken forward into the planning balance.
38. Coombe Farmhouse is further away and the landscape and visual report assesses a high magnitude of effect, with moderate to substantial significance. This property has significant intervening vegetation and buildings at North Beer Farm, providing good screening of the turbine. Again, taking into consideration the distance to the turbine, I do not consider the remaining views of the turbine would be so unpleasant, overwhelming or oppressive that Coombe Farmhouse would become an unattractive place to live. Nevertheless, it will have a little impact on the residents that needs to be taken forward into the planning balance.
39. Properties are at risk from shadow flicker, including Week Farm and North Beer Farm. As the turbine is associated with North Beer Farm, occupiers can make their own arrangements to control the effect of shadow flicker. A study indicates that the potential events at Week Farm would be between 19:00 and 20:00, but the analysis does not take into account sunset times, weather conditions or potential screening by vegetation, so that would be the worst case scenario. In addition, the majority of windows at Week Farm face away from the turbine, so the risk of significant harm caused to occupiers by shadow flicker is low. In addition, the turbine can make use of available technology to further mitigate the risks at appropriate times. Therefore, I do not carry any weight related to shadow flicker into the balance.

### **Other Matters**

40. The turbine has been assessed in relation to noise against advice contained in ETSU-R-97 and demonstrates that the noise levels at all residential properties would meet the noise limits described in ETSU-R-97.

### **Planning Balance**

41. 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.
42. 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 Practice Guidance for Renewable and Low Carbon Energy [PPG] was issued. The PPG has now been superseded by 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.
  43. 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.
  44. The PPG identifies that 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 protections 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 indicate that local opposition is overriding.
  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 recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions. The design life of the proposed turbine is 20 years and based on 500KWp installed capacity is estimated to generate about 1,761MWh of energy per annum, based on an average wind speed of about 6.9m/s. While there is some disagreement about the exact amount of energy produced, in my view this is a reasonable estimate and I attach substantial weight to the likely benefits of the proposed turbine, in terms of renewable energy and low carbon technologies. The turbine would also have a small economic benefit in terms of employment associated with its construction and would provide benefit to the farmer in terms of farm diversification and the income to the farm provided from use of the land.
  46. Against the benefits of the proposal are to be weighed the harm identified above, mainly related to the major harm at Stockhay. In my view, while noting the great weight to be given to the benefits of the turbine, I consider that the major harm to the significance of Stockhay and to the living conditions of its occupiers clearly outweighs those benefits. In addition, the weight attached to

the limited harm in terms of the impact on the area locally, other heritage assets and on the living conditions of other nearby occupiers adds additional weight against the proposal. I acknowledge that the life expectancy of the turbine is 20 years and the temporary nature of the permission adds considerably in favour of the proposal. However, even taking this into consideration, the benefits would not outweigh the considerable harm that would be experienced by the occupiers of Stockhay for a 20 year period and harm to the building's setting/significance. I therefore conclude that the proposal would not accord with the aims and objectives of CS Policies SP1 and SP3 and LP Policies NE10, BE3 and SP18, or the aims and objectives of the Framework.

*Graham Dudley*

Inspector

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