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# Appeal Decision

Site visit made on 11 September 2013

**by Paul Griffiths BSc(Hons) BArch IHBC**

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

**Decision date: 18 December 2013**

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**Appeal Ref: APP/D0840/A/13/2190707**

**Treswarrow Park Farm, Trelights, Port Isaac PL29 3TW**

- 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 Murex Energy Ltd against the decision of Cornwall Council.
  - The application Ref.PA12/04547, dated 11 May 2012, was refused by notice dated 18 December 2012.
  - The development proposed is the erection of a single wind turbine with maximum blade tip height of 77m; formation of a new vehicular access track; and associated infrastructure.
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## Preliminary Matters

1. In their reason for refusal, and subsequent submissions on the appeal, the Council has referred to policies in the Cornwall Structure Plan 2004. However, this was revoked by the Secretary of State, along with the regional apparatus, in May 2013. On that basis, the policies referred to no longer hold sway and I have not taken any account of them in my determination of the appeal.

## Decision

2. The appeal is dismissed.

## Main Issue

3. This is whether any benefits of the proposal outweigh any harmful impacts, on the landscape, and the setting, and thereby the significance, of designated heritage assets, in particular.

## Reasons

### *Benefits*

4. One of the core planning principles of the Framework<sup>1</sup> is to encourage the development of renewable energy. Paragraph 93 explains that planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, and minimising vulnerability, and providing resilience, to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure. Paragraph 98 says that applicants for energy development are not required to demonstrate the overall need for renewable or low-carbon energy and recognises that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions.

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<sup>1</sup> The National Planning Policy Framework

5. According to the appellant, the wind turbine proposed would have an installed capacity of 500kW. Based on an average wind speed for the site of 7.3m/s, it is said that the wind turbine would produce 2,100 MWh of renewable energy per year, enough to supply 512 UK homes, or 362 Cornish homes.
6. Bearing in mind the approach of the Framework, reflective of wider Government energy policy, this would be a valuable contribution to cutting greenhouse gas emissions, amongst other things. Moreover, paragraph 38 of the recent guidance<sup>2</sup> indicates that the capacity factor can be useful information in considering the energy contribution to be made by a proposal, particularly when a decision is finely balanced. In that overall context, the renewable energy that would be produced by the proposal is a material consideration that attracts significant weight in favour.
7. The proposal would also produce an income that would assist in securing the ongoing viability of the farming enterprise. Paragraph 28 of the Framework strongly supports the development and diversification of agricultural and other land-based rural businesses in order to support a prosperous rural economy. This is an added benefit of the proposal.

### *Landscape*

8. The appeal site lies within the CA34 Camel Estuary LCA<sup>3</sup>, as identified in the 2007 Cornwall and Isles of Scilly Landscape Character Assessment and relatively close to the boundaries of the adjacent CA33 Camel and Allen Valleys LCA, and CA35 Kellan Head to Millock Haven Coast LCA.
9. The north-eastern part of CA34 LCA and much of CA35 LCA lie within the Pentire Point to Widemouth section of the Cornwall AONB<sup>4</sup>. This strip of coastline is also designated as Heritage Coast. The southern part of LCA CA34 lies within the Camel Estuary section of the Cornwall AONB.
10. In assessing the effect of the proposal on the surrounding landscape, it is important to note, first of all, that one of the core principles of the Framework is to recognise the intrinsic character and beauty of the countryside. Paragraph 109 sets out that the planning system should contribute to and enhance the natural and local environment by, amongst other things, protecting and enhancing valued landscapes.
11. Paragraph 114 tells us that the character of the undeveloped coast should be maintained and its distinctive landscapes protected and enhanced, particularly in areas defined as Heritage Coast. Paragraph 115 makes it clear that great weight should be given to conserving landscape and scenic beauty in, of relevance, AONBs, which have the highest status of protection in relation to landscape and scenic beauty.
12. Paragraph 15 of the recent guidance sets out that local topography is an important factor in assessing whether wind turbines could have a damaging effect on the landscape and proposals in National Parks or AONBs, and in areas close to them where there could be an adverse impact on the protected area, will need careful consideration. Reference is also made in the guidance to cumulative impacts.

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<sup>2</sup> Planning Practice Guidance for Renewable and Low Carbon Energy

<sup>3</sup> Landscape Character Area

<sup>4</sup> Area of Outstanding Natural Beauty

13. Clause 2 of LP<sup>5</sup> Policy TRU4 states that proposals for individual wind turbines outside the AONB and Heritage Coast will be assessed having regard to the provisions of LP Policy ENV1 and will be permitted where they have no adverse effect on residential buildings through noise, shadow flicker, or other interference, or road safety, and the site is suitable in terms of its potential for wind energy generation.
14. However, Clause 1 of the policy sets out that proposals for individual wind turbines in the AONB and Heritage Coast, or on sites close to their boundaries, which comply with the criteria in Clause 2, will be assessed having regard to the provisions of LP Policy ENV1, and the benefits of renewable energy, and will not be permitted where those benefits do not justify harm to the special features or qualities which led to the national designation.
15. For its part, LP Policy ENV1 maintains that in the AONB and Heritage Coast, the main priority will be the conservation of the natural beauty of the landscape. Development proposals within, or near to, the AONB or the Heritage Coast, will not be permitted where they adversely affect the character and amenity of these areas, unless the development is required in the proven national interest, and no alternative sites are available.
16. In dealing with the application of these policies, much rests on whether the proposal can be seen as being near or close to the AONB and Heritage Coast. Paragraph 5.32 of the accompanying text to LP Policy ENV1 is helpful in this regard setting out that a precise definition of a 'buffer zone' is not considered necessary but, as a general guide, any development within 1 kilometre of the AONB or Heritage Coast will be examined particularly carefully. This approach is similar to that of the recent guidance, set out above.
17. The wind turbine would be located about 3km from the boundary of the Camel Estuary Section of the AONB but just 540 metres away from the boundary of the Pentire Point to Widemouth section of the Cornwall AONB, and Heritage Coast. Having regard to LP Policy ENV1, and the recent guidance, this relationship is evidently one that requires careful attention.
18. The CA34 LCA can be characterised as a gently rolling, low lying, exposed, and open landscape with a medium scale field pattern. The wind turbine would be a man-made imposition of great scale upon it but viewing this LCA in isolation, the characteristics of the landscape, and in particular its open, exposed nature, and field pattern, would allow the wind turbine to sit relatively comfortably in its context, thereby limiting (though not entirely extinguishing) the degree of harm that would be caused.
19. However, the proposal cannot be considered solely in this way. The wind turbine would not be within the boundaries of the AONB or the Heritage Coast. As such, it would have no direct impact on the landscape within those designated areas. However, the scenic beauty of the AONB and Heritage Coast relies to a large extent on views across and out of the area. The appellant suggests that views out to sea, in which the wind turbine would not feature, are the most important ones. That is a fair point but, these views are not the only important ones. From what I saw, the prospect across the CA34 LCA from the northern part of the AONB and Heritage Coast, towards the southern part of the AONB and the Camel Estuary, and vice versa, have importance too.

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<sup>5</sup> The North Cornwall District Council Local Plan

20. In views towards the northern part of the AONB from around the Camel Estuary, the wind turbine would be about 3 km distant and at that range, while it would be visible, it would be largely subsumed by the features of the landscape it would sit within. Views 5, 6 and 11, prepared by the appellant, amply demonstrate that. In this respect, it would not have any significantly harmful effect on the scenic beauty of the AONB, or the Heritage Coast.
21. However, in views from the northern part of the AONB, towards the Camel Estuary, the wind turbine would be just 540 metres distant. As a consequence, its often moving presence would be very prominent. Views 18 and especially 17, prepared by the appellant, demonstrate a degree of visual dominance in views towards the Camel Estuary from the southern parts of the northern element of the AONB and Heritage Coast that would result in a significantly damaging effect on scenic beauty.

### *Designated Heritage Assets*

22. The focus of the Council and others' concern is the effect of the proposal on the setting, and thereby the significance, of the Churches of St Menefreda, in St Minver, and St Endelienta, in St Endellion, both Grade I listed buildings. Paragraph 132 of the Framework says that when considering the impact of a proposal on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 15 of the recent guidance sets out that great care should be taken to ensure that heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting. LP Policy ENV12 does not permit development that would adversely affect the setting of a listed building.
23. The tower of St Endelienta and the spire of St Menefreda act as a spiritual reference points in the landscape and this is an aspect of their significance. Notwithstanding the separation distances involved, the often moving visual presence of the wind turbine proposed, would provide some visual competition, and a distracting presence, that would detract from the supremacy and prominence of the tower and spire in many views across the landscape. This would undermine their positions as spiritual reference points, and landmarks, in a manner harmful to their settings and, as a consequence, their significance.
24. Paragraph 34 of the recent guidance asserts that depending on scale, design, and prominence, a wind turbine within the setting of a heritage asset may cause substantial harm to the significance of the asset. However, by far the greatest proportion of the significance of the Churches lies in their historic fabric and architectural composition. Setting contributes in small part only to their significance overall. In that light, the harm that would be caused to the significance of the Churches, through the effect the wind turbine would have on their settings, while tangible, would be less than substantial.
25. The desirability of preserving the setting of the Churches is a matter that requires special regard<sup>6</sup>. Moreover, that there would be some harm caused to their settings means that the proposal would not comply with LP Policy ENV12. However, paragraph 134 of the Framework approaches the matter in a different way to that policy, requiring any less than substantial harm to be weighed against the public benefits of the proposal. I return to this matter below.

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<sup>6</sup> By dint of Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

### *Other Matters*

26. Local residents have raised a number of other concerns about the proposal. On the basis of the evidence before me I am content that any issues around noise and/or shadow flicker could be controlled by suitably worded conditions to the extent that the living conditions of residents and tourists around the site would not be unduly affected. I note that the Council takes a similar view. There is no good evidence that noise from the wind turbine would have such an adverse impact on the cats and dogs housed at the nearby Treswarrow Boarding Kennels & Cattery that it would adversely affect the business.
27. I visited a number of dwellings around the site and the Gunvenna Holiday Park. The wind turbine would be sufficiently distant to avoid any dominant or oppressive visual impact on residents or holiday-makers at any of these. Clearly, the view from these dwellings and facilities would change but it is a long-established planning principle that views are not inviolable.

### *The Balancing Exercise*

28. The proposal would bring forward benefits in terms of the generation of renewable energy and the ongoing viability of the farming enterprise and these public benefits attract significant weight in favour of the proposal. While the benefits could be realised without any undue impact on local businesses, or the living conditions of local residents, and holiday-makers, the proposal would have a moderately harmful impact on the landscape of the CA34 LCA, a significant adverse impact on the scenic beauty of the AONB and Heritage Coast, and cause less than substantial harm to the setting, and thereby the significance, of two Grade I listed buildings. The latter is a matter to which I have had special regard and as a result of this particular adverse impact, the proposal would not comply with LP Policy ENV12.
29. However, this policy is not consistent with the Framework in that it seeks to avoid any harm to the settings of listed buildings as a result of renewable energy proposals. Paragraph 98 of the Framework takes a different approach setting out that such a proposal should be approved<sup>7</sup> if its impacts are, or can be made, acceptable. That clearly allows for a degree of harm to be accommodated in order that the benefits of renewable energy can be realised. LP Policy ENV1 takes a similar tack, though the sequential test it includes is not consistent with the Framework.
30. Paragraph 15 of the recent guidance confirms that the need for renewable energy does not automatically override environmental protections. On my analysis, despite being both temporary, and reversible, the harmful impact of the proposal, especially on the scenic beauty of the AONB and Heritage Coast, would clearly outweigh the benefits it would bring. The proposal fails to accord with LP Policy ENV1, the Framework, and the recent guidance, therefore.

### **Final Conclusion**

31. For the reasons given above I conclude that the appeal should be dismissed.

*Paul Griffiths*

**INSPECTOR**

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<sup>7</sup> Unless, of course, material considerations indicate otherwise

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