
Appeal Decision

Hearing held on 7 November 2013

Site visit made on 8 November 2013

by Elizabeth C Ord LLB(Hons) LLM MA DipTUS

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

Decision date: 10 January 2014

Appeal Ref: APP/Y2810/A/13/2200118

Wormslade Farm, Kelmarsh, Northamptonshire, LE16 9RP

- 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 Mark Newton against the decision of Daventry District Council.
 - The application Ref DA/2012/0727, dated 14 September 2012, was refused by notice dated 9 January 2013.
 - The development proposed is the erection of a single 500kW wind turbine with maximum height of 78m to tip and associated infrastructure.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the proposal on the surrounding area in terms of landscape character and visual amenity;
 - Whether the proposal would harm the significance of local heritage assets;
 - The effect of the proposal on the amenities of the residents of Kelmarsh Field Farm in terms of visual impact; and
 - The extent of the benefits of the proposal.

Policy

3. As confirmed in the National Planning Policy Framework¹ (the Framework), planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise². The Framework, which promotes a presumption in favour of sustainable development, is such a material consideration³.

¹ Paragraph 11

² Section 38(6) of the Planning and Compulsory Purchase Act 2004

³ Paragraph 13 of the Framework

4. The presumption in favour of sustainable development requires development proposals that accord with the development plan to be approved without delay. Also, where the development plan is absent, silent or relevant development plan policies are out of date, it requires permission to be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole⁴. Development plan policies must be considered in the light of the Framework's balancing approach to harm and benefits and due weight should be given to them according to their degree of consistency with the Framework⁵.
5. For the purposes of this appeal the development plan consists of saved policies from the Daventry District Local Plan (DDLPL) adopted in September 2007, and in particular Policy GN2, which is a general policy that allows for the granting of planning permissions provided that certain criteria are met. It does not say that permission will not be granted should these criteria not be met.
6. With respect to the proposal, the most pertinent criteria are that the development "*is of a type, scale and design in keeping with the locality and does not detract from its amenities (GN2A)*", and that it "*will not adversely affect a conservation area or a building listed as being of architectural or historic interest and their setting*" (GN2E).
7. Comparing this policy with Framework provisions, the Framework seeks to recognise the intrinsic character and beauty of the countryside and protect and enhance valued landscapes⁶, and to secure a good standard of amenity for existing and future occupants of land and buildings⁷. It also aims to conserve heritage assets in a manner appropriate to their significance⁸. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal⁹.
8. Examining the whole of Policy GN2, I find that it is a permissive policy which seeks to obtain benefits from the development (criteria B and D) as well as protection from its harmful impacts. It appears to me to be a balanced policy, the relevant parts of which are generally in accordance with the thrust of the Framework provisions. Therefore, I find that Policy GN2 is not out of date.
9. However, the Framework also supports the delivery of renewable, low carbon energy and associated infrastructure, indicating that it is central to the economic, social and environmental dimensions of sustainable development¹⁰. Consequently, local authorities are expected to recognise the responsibility imposed on all communities to contribute to energy generation from renewable or low carbon sources¹¹. The Framework goes on to say that it should be recognised that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions, and a planning application for renewable energy should be approved if its impacts are, or can be made, acceptable¹².

⁴ Paragraph 14 *ibid*

⁵ Paragraph 215 *ibid*

⁶ Paragraphs 17 and 109 *ibid*

⁷ Paragraph 17 *ibid*

⁸ Paragraph 17 *ibid*

⁹ Paragraph 134 *ibid*

¹⁰ Paragraphs 17 and 93 *ibid*

¹¹ Paragraph 97 *ibid*

¹² Paragraph 98 *ibid*

10. There are no policies specifically relating to renewable energy in the DDLP and, therefore, in terms of the Framework's presumption in favour of sustainable development, the development plan is silent and, consequently, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
11. Also of some weight is the Council's *Interim guidelines when assessing proposals for the development of wind turbines*, revised version adopted in December 2012 which, although not having the status of a Supplementary Planning Document, has been subject to public consultation. These guidelines advise supporting wind turbine proposals on condition that certain criteria are met, including not having a significant adverse impact on local amenity, historic environment, visual amenity and landscape character.
12. I have also been referred to Policy S11 of the emerging West Northamptonshire Joint Core Strategy. However, as it is still undergoing examination, I give it limited weight.
13. Further Government advice is contained within the Ministerial Statement of 6 June 2013 and *Planning practice guidance for renewable and low carbon energy*, published in July 2013. Both of these documents build on Framework policy.

Reasons

Landscape character and visual impact

14. The appeal site lies within a large arable field, close to a tree edged pond in open countryside. It is generally surrounded by undulating, large scale, agricultural fields, enclosed by hedgerows, beyond which are situated the four villages of Great Oxendon to the north, Arthingworth to the east, Kelmarsh to the south and Clipston to the west. It sits on a ridge of land within a shallow bowl, which I am told is thought to have been a post-glacial lake, defined by higher, more distant land.
15. There are a few scattered dwellings nearby and the appeal site field contains metal farm buildings. No large scale man-made vertical structures are apparent in the immediate vicinity, although there are some wooden electricity/telegraph poles supporting lines across the fields. There is also a larger scale radio mast to the south west, which I am told is about 3.5km away. However, overall, there are relatively few vertical, manmade structures in the area.
16. The site is accessed from a field track, which turns off a minor road situated to the north. The A508 passes close by to the east in a north south direction to join up with the busy A14 to the south beyond Kelmarsh village. There are a number of public rights of way nearby, including the Brampton Valley Way, which runs along a disused railway track on high ground to the east.
17. The landscape character is also influenced by a large number of heritage assets within and outside of the villages, many of which are listed, including the Grade I listed Kelmarsh Hall, which is part of the group of Kelmarsh heritage assets.
18. The Northamptonshire Landscape Character Assessment shows the site as lying within the Clay Plateau typology (Naseby Plateau character area) which, amongst other things, indicates expansive, long distance and panoramic views

across open areas and a sense of exposure on some prominent locations. I also understand that, whilst the Clay Plateau is summarised as being generally unremarkable on a county scale, the Assessment sets a strategy of conserving and enhancing its expansive views and discourages development to avoid intrusion on the skyline.

19. To the north and east is the Undulating Hills and Valleys typology (Cottesbrooke and Arthingworth character area), which is described as having a strong rural character with a mixed farming economy. Whilst the Assessment refers to landform, small woodlands and hedges tending to screen long distance views, it also refers to some wide views being available from elevated areas.
20. Indeed, from my site visit, it was apparent that there are some expansive views into and out of the site.
21. Given the area's largely unspoilt, open character and sense of remoteness and tranquillity, it appears to me to be reasonably sensitive to wind turbine development. I, therefore, accept the evidence of Alison Farmer Associates¹³ and the appellant's Landscape expert¹⁴, that the landscape is moderately sensitive to the proposed development. Consequently, in my judgement, it has the potential to accommodate some development of an appropriate type and scale.
22. The proposed turbine would measure 50m to the hub and a maximum of 78m to blade tip, with a rotor diameter of 56m. It would be a three-bladed horizontal axis propeller design with the hub positioned on a steel tower and capable of rotating to respond to the wind. Although it would have a light grey finish to minimise reflection and reduce its visual impact, its moving rotors would nonetheless draw the eye and attract attention, making it conspicuous from viewpoints within this open location.
23. It would be set on a concrete foundation measuring about 12m in diameter, and a switch gear kiosk would be positioned at the base of the turbine set on a concrete plinth, measuring about 3m in length, 2m in width and 2.85m in height. The electricity produced by the turbine would be fed through an underground cable into the grid via a transformer, which would also be housed in a similar sized kiosk on a similar concrete plinth to the east of the existing farm buildings.
24. The development would constitute a new built structure in the landscape and the appellant's landscape expert accepts that it would be the most visually dominant element within about 500m of the site. In my opinion, given its large scale and height, the turbine would also have a dominating presence further afield, particularly when seen from the north.
25. From some public vantage points, including parts of the highway, there would be generally uninterrupted views of the turbine which would break the skyline. From other public places, including the Brampton Valley Way, there would be glimpsed or filtered views through the trees. It would also be apparent to varying degrees from the surrounding villages and the grounds of Kelmarsh Hall, which are open to the public.

¹³ On behalf of "Against Oxendon Wind Turbines"

¹⁴ Gary Holliday

26. Overall, from my observations and having regard to the photomontages, wire frame viewpoints, and modelled zone of theoretical visibility, it seems to me that the proposed development would have a reasonably wide ranging visual impact.
27. The turbine would represent an incongruent, utilitarian, man made feature, which would loom large in this relatively isolated, rural location. Consequently, its form and nature would starkly contrast with and detract from its natural surroundings, to the significant detriment of the landscape character and visual amenity of the area.
28. The latest guidelines on landscape and visual impact assessment indicate that other schemes in the vicinity of the proposal should be considered at the assessment stage if planning consent has been given or where there is a valid planning application, which has not yet been determined¹⁵. Therefore, I must consider the cumulative effects which might occur in association with the approved, but not yet built Kelmarsh Wind Farm consisting of six turbines (four with a maximum height of 126.5m to blade tip and two with a maximum height of 121m to blade tip), which I am told is about 2.8km from the proposed turbine. Also of relevance is another proposed turbine application, the Little Oxendon turbine (44.5m to tip), which I understand is yet to be determined, but which would be located west of Great Oxendon, if built.
29. From Kelmarsh Hall park and gardens there would be some successive views of both the proposed Wormslade Farm and the consented Kelmarsh Wind Farm schemes. Also from the southern edge of Great Oxendon village, there are views south, which would incorporate both schemes, seen as breaking the skyline. Although the two developments are some distance apart, the scale of the turbines would result in a material cumulative impact.
30. With respect to the Little Oxendon proposed turbine, I am not convinced that there would be any significant cumulative effect, given its separation distance and scale.
31. Overall, in policy terms the proposal would not satisfy DDLP Policy GN2 in that it would not be in keeping with the locality and would detract from its amenities (criterion A). Furthermore, it would not accord with paragraphs 17 and 109 of the Framework which, amongst other things, require recognition of the intrinsic character and beauty of the countryside and seek to protect valued landscapes.

Heritage assets

32. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard be had to the desirability of preserving listed buildings or their settings or any features of special architectural or historic interest which they possess, when determining applications for development which affect those buildings or their settings.
33. According to the Government's *Historic Environment Planning Practice Guide* (to Planning Policy Statement 5), setting is defined as "*the surroundings in*

¹⁵ *Guidelines for Landscape and Visual Impacts Assessment*, 2013, Landscape Institute and Institute of Environmental Management and Assessment, page 123

*which an asset is experienced*¹⁶ and *"setting is often expressed by reference to visual considerations"*¹⁷.

34. The area possesses a number of registered heritage assets, some of which could be affected by the development. The Kelmarsh heritage assets include Kelmarsh Hall (Grade I), which lies about 1.7m from the site, Kelmarsh park and gardens (Grade II*), the edge of which lies about 1.1km from the site, the Kitchen Garden Walls (Grade II), North Lodge (Grade II), St Denys Church (Grade II*), and the Kelmarsh Scheduled Ancient Monument, which is a deserted medieval village. I accept that the proximity of these assets to each other, and their shared history, gives them linked significances, overlapping settings and group value.
35. The setting of Kelmarsh Hall park and gardens generally consists of the surrounding open agricultural fields, particularly to the north, and the setting of the Hall extends beyond its park and gardens to this wider landscape. The Hall and Church are focal points in the landscape and contribute to a sense of place.
36. From the southern edge of Great Oxendon village the turbine would detract from views of Kelmarsh Hall and St Denys Church, thereby adversely impacting on their setting.
37. Apart from filtered, oblique views from upper rear windows at Kelmarsh Hall, views of the turbine from inside the Hall would be largely screened by vegetation, particularly when in leaf. However, English Heritage's guidance *The Setting of Heritage Assets*, of June 2012, cautions against overreliance on vegetative screening due its potentially ephemeral nature and the possibility of removal¹⁸. Nonetheless, from my observations, I do not consider that there would be any significant views of the development from the Hall.
38. However, from the Events Fields, the lake, and circular walks in the registered park, the turbine would be clearly visible. Given the turbine's scale and contrasting built form compared to the natural surrounding fields, its impact on the setting of Kelmarsh park and gardens would be significantly adverse. Furthermore, there would be some successive views of the Wormslade turbine and the Kelmarsh Wind Farm, which would exacerbate this detrimental impact on setting.
39. From high land to the south east of the Hall, which forms the Kelmarsh Scheduled Ancient Monument, the front of the Hall can be seen and would be in the same view as the Wormslade turbine and the Kelmarsh Wind Farm. Cumulatively, these turbines would adversely affect the setting of these heritage assets.
40. Naseby Battlefield, which is a nationally important heritage asset, lies to the west of the Wormslade turbine, and relies on its landscape setting for interpretation of the battle. The historic view from Rupert's viewpoint is to the south and the east, which would take in the Wormslade turbine to the east, albeit I am told at a distance of about 3km, and the Kelmarsh Wind Farm to the south on the skyline. Given the separation distances involved, the impact of the Wormslade turbine, alone or cumulatively, on the battlefield's setting would not be significant.

¹⁶ Paragraph 113

¹⁷ Paragraph 114

¹⁸ Page 22

41. In conclusion, the proposed turbine would result in significantly adverse impacts on the setting of some of the Kelmarsh heritage assets. Consequently, it would not satisfy DDLP Policy G2 in that it would adversely affect the setting of a listed building (criterion E). Nor would it accord with paragraph 17 of the Framework which, amongst other things, aims to conserve heritage assets in a manner appropriate to their significance. However, as the impact on significance would be less than substantial, in accordance with paragraph 134 of the Framework, this harm should be weighed against the public benefits of the proposal.

Residential amenity

42. The Council's interim wind turbine guidelines indicate that particular attention should be paid to the impact of a turbine on the visual amenity of residential receptors within a distance of 10 times the height to blade tip of the wind turbine¹⁹. Kelmarsh Field Farm is approximately 740m from the proposed development and, therefore, within this distance.
43. On my site visit I noted that, despite the presence of nearby trees and hedges, the turbine would be clearly visible from the property between large gaps in the vegetation. Given the orientation of the dwelling, the rear patio and garden area would be particularly affected, and views from the patio sitting area would be directly onto the turbine. Inside the dwelling the aspect from the side lounge window would be onto the turbine and there would also be oblique views from rear habitable room windows, including bedrooms and sitting rooms.
44. There is no right to a view from a private property, as this is not considered to be a public interest. Nonetheless, where the visual effect of a development would result in such an unreasonable impact on living conditions as to render a dwelling a significantly less attractive place to live, this is of public interest. According to the most recent guidelines on landscape and visual impact assessment, residents at home are considered to be most susceptible to change²⁰. The residents of Kelmarsh Field Farm are likely to be sensitive to the change in outlook that would be brought about by the proposal.
45. In this case, the change the Farm's residential occupiers would experience would come from the turbine being a constant, unavoidable feature in their outlook from habitable room windows, the patio, and the garden area. Its scale would render it conspicuous and imposing in such close proximity, and its moving blades would draw the eye and exacerbate its visual presence. Consequently, it would be visually detrimental and would significantly reduce the attractiveness of Kelmarsh Field Farm as an attractive place to live.
46. Consequently, the proposal would not accord with paragraph 17 of the Framework which seeks, amongst other things, to secure a good standard of amenity for existing and future occupants of land and buildings. Nor would it meet the provisions of the Council's interim wind turbine guidelines with regard to visual amenity.

¹⁹ Paragraph 5.20

²⁰ *Guidelines for Landscape and Visual Impacts Assessment*, 2013, Landscape Institute and Institute of Environmental Management and Assessment, paragraph 6.33

Benefits

47. I understand that the candidate EWT 500kW turbine is estimated to have a capacity factor of over 40% at wind speeds of 6.7 m/s, which I am told is the long term average wind speed at a 50m height on the site. This would make it one of the more efficient types of wind turbine and would enable sufficient electricity to be generated to power in the order of 500 plus homes per year. It would also stimulate economic activity due to the investment made in renewable technology and the contribution made to providing jobs and creating business within this sector.
48. The turbine would operate on a 24 hour basis and the electricity generated would be used to meet the energy requirements of Wormslade Farm, with all excess electricity being fed into the National Grid system. As such it would meet the sustainability objectives of producing energy from renewable sources, and lessening dependence on fossil fuels and assisting with energy security. It would also make a contribution towards reducing CO₂ emissions, thereby helping to tackle the challenge of climate change and reducing greenhouse gas emissions.
49. Although these benefits would be small scale when compared with total national electricity generation, they would nonetheless be of significant value and would promote national energy objectives. They would also accord with the Framework's above mentioned renewable energy provisions.

Conclusion

50. A balance must be drawn between the competing considerations of this proposal. On the one hand the turbine would have the significant benefit of generating renewable energy, whilst on the other hand it would cause significant harm to the landscape character and visual amenity of the area, would significantly harm the outlook from Kelmarsh Field Farm, and would result in less than substantial harm to the significance of some of the designated Kelmarsh heritage assets.
51. Paragraph 15 of the Government's *Planning practice guidance for renewable and low carbon energy*, advises that: *the need for renewable or low carbon energy does not automatically override environmental protections; cumulative impacts require particular attention; great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting; and protecting local amenity is an important consideration which should be given proper weight in planning decisions.*
52. In considering this advice, relevant Policy, and taking all other matters into account, in my judgement, the harm that would be generated would significantly outweigh the benefits. In the terms of the Framework, the adverse impacts of the proposed turbine would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Consequently, I conclude that the planning balance is against allowing the turbine development and I, therefore, dismiss the appeal.

Elizabeth C. Ord

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

John Edmund BA(Hons), LMRTPI	Solicitor with Marrons Shakespear
Mark Newton	Appellant
Richard Dunnett BA(Hons) MRTPI	Chartered Town Planner
Jennifer Richards BA, PDDip, AIFA	Heritage Consultant with Headland Archaeology (UK) Ltd
Gary Holliday BA(Hons) MPhil CMLI	Director in FPCR Environment and Design Ltd
Christopher May LLB LARTPI	Senior Associate with Marrons Shakespear

FOR THE LOCAL PLANNING AUTHORITY:

Simon Aley MBA, LLB, DipLG	Solicitor for District Law in-house legal services
Michael Venton BA(Hons)LA, Dip LA	Landscape Architect with Daventry District Council
Erica Buchanan BA(Hons) DipTP	Planning Officer with Daventry District Council
Rachel Booth BSc(Hons), MSC Hist.Con. MSc(Oxon)	Conservation Officer with Daventry District Council

FOR "AGAINST OXENDON WIND TURBINES" (AOWT):

Steve Arnold MA(Cantab), MA(TRP), MRTPI, MRICS	Planning Consultant
Alison Farmer BA, MA, MLI	Landscape Architect with Alison Farmer Associates
Mark Linnell	Member of AOWT

OTHER INTERESTED PERSONS:

Cllr Cecile Irving Smith	Councillor and Local Resident
Cllr Bryn Aldridge	Councillor
Chris Alderson Smith	Local Resident
Anthony Price	Clipston Parish Council
Kim Bowman	Local Resident
Christopher Young	Local Resident
Patricia Laing	Local Resident

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Qualifications and Experience of Alison Farmer
- 2 Notification Letter of Hearing
- 3 Heritage Assets Map
- 4 Council's Interim guidelines when assessing proposals for the development of wind turbines
- 5 EWT information on energy generation from an EWT 500kW turbine
- 6 Kelmars turbines Appeal Decision

- 7 Photomontages from Kelmarsh appeal
- 8 Coleman High Court Decision
- 9 Maps of viewpoints for site visit
- 10 Ofgem typical domestic consumption values
- 11 Local population figures
- 12 Wind climate at Wormslade Farm
- 13 Council's legal submission on policy

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