

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Planning Committee

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APPEALS AGAINST PLANNING DECISIONS AND ENFORCEMENT ACTION: SUMMARIES OF DECISIONS OF INTEREST – FOR INFORMATION

Purpose

1. To highlight recent Appeal decisions of interest forming part of the more extensive Appeals report, now only available on the Council's website and in the Weekly Bulletin.

Summaries

Cambridge Windfarm Ltd – 15 wind turbines, anemometry mast substation and associated infrastructure – Land southwest of A14, between Boxworth and Conington – Appeal dismissed

2. The inquiry sat for 12 days between 17 October and 3 November. The Council was represented by counsel and in addition to the appeals officer (policy issues), external witnesses were employed to deal with landscape, visual amenity and noise issues. The Highways Agency and its technical advisers, Faber Maunsell spoke on highway matters. Matters relating to aircraft safety and ecology were resolved before the start of the inquiry and no evidence was given.
3. The Stop Cambridge Wind Farm group (SCWF) played a significant part in the inquiry. It was represented by counsel for the most part and called 14 witnesses. Ten other persons spoke at the inquiry (both for and against).
4. Before the start of the inquiry, the total number of turbines was reduced from 16 to 15. The inspector identified four main issues. These were:
 - (i) The contribution that the scheme would make towards renewable energy targets;
 - (ii) The impact of the development on the character and appearance of the area including historic landscape and visual amenity;
 - (iii) The effect on highway safety on the A14; and
 - (iv) The effect on living conditions for local residents particularly with regard to noise.
5. So far as the development plan is concerned, the inspector noted that there is general support for renewable energy schemes but that they will be subject to compliance with other policies, particularly the landscape and historic environment. The Regional Spatial Strategy (RSS) sets out targets and detailed locational principles and criteria. As the Regional Assembly is to prepare changes to the Regional Spatial Strategy, which is to be the subject of further consultation, the inspector was unable to give significant weight to the plan.
6. Similarly, only those policies in the merging LDF that carry forward existing policies or echo statutory requirements could be afforded any weight.

7. With regard to national policy, PPS22 and its Companion Guide provide support for appropriate schemes. The most recent review of the relevant issues is '*The Energy Challenge*' published by the DTI in 2006. This states that individual projects are part of a growing trend that provide crucial national benefits. This factor is a material consideration to which all participants in the planning system should give significant weight when considering renewable energy proposals.

(I) Meeting energy targets

8. The regional target for renewable energy production as a proportion of overall totals is 10% (14% including off-shore) by 2010. The parties agreed that the existing on-shore total is 4.9% although this could rise to 7.2% if all projects currently in the planning stage are included. While the additional potential for off-shore projects should not be ignored, PPS22 states this shouldn't be used as an excuse for lower on-shore targets.
9. It is unlikely that the 2010 target will be met. It is intended that targets are pushed up and not down and in the event that a target is reached, this is no excuse to refuse planning permission for future projects. The appellant's view that the need for more renewable energy development is required was both urgent and increasingly pressing. While the inspector saw the targets as mainly a spur to encourage further development, he still concluded that the proposal would contribute to the ultimate attainment of regional targets.

Landscape and visual amenity

10. PPS22 recognises that out of all renewable energy projects, wind turbines are likely to have the greatest landscape and visual effect. The appellant made much of the reversibility of the wind farm, but the inspector saw it as a substantial scheme which was unlikely to come to an abrupt end after its 25 year life.
11. The inspector found a clear and evident distinction between the landscape either side of the A14. To the south-east it comprises gentle slopes with homogeneity, while to the north-east it is generally flat with a patchwork of different types. The A14 makes its own contribution as a landscape corridor. The five villages of Lolworth, Boxworth, Knapwell, Ellsworth and Conington and the intervening landscape form a complementary and attractive group.
12. The turbines would be 60m to the hub with 40m long blades and sited in three ranks roughly parallel to the A14. The inspector found that it is the rotation of the blades that significantly magnifies the presence of the turbines in the landscape.
13. When seen from across the A14, he felt they would actually complement the intensity and energy of movement of traffic on the A14. The A14 was considered to dominate the landscape and the view from parishes to the north and east would not be unacceptable. In an earlier decision elsewhere, a previous inspector had argued that all turbines would, by definition, be out of scale with their surroundings. This inspector did not see this as an entirely convincing argument as the need to carefully consider location, scale and design was still important. A larger scale landscape was likely to more successfully accommodate a larger group of turbines. Here the height of the turbines was contingent on wind speed and smaller turbines would not be possible. In this case, the smaller scale of the landscape makes a valuable contribution to the setting of the villages to the south-west of the A14.

14. The turbines were also found to have a significant effect on views from some of the public rights of way between Boxworth and Conington and west of Knapwell.
15. So far as the historic landscape is concerned, the inspector concluded that the heavy volume of traffic on the A14 has diminished any time-depth that may once have been evident in the line of the former Roman road. In contrast, the historic smaller enclosures and woodlands around Boxworth are still visible today and make some contribution to the area. Nonetheless this is not sufficient in itself to make a significant contribution to the resolution of the main issue. More weight should be attached to the setting of listed buildings and conservation areas and in this respect the inspector found there would be an effect on Page's Farm, Boxworth, Marshall's Farm, Conington, Holy Trinity Church, Elsworth and Elsworth Conservation Area.
16. The inspector concluded that on balance, the scheme would have a harmful impact on the character and appearance of the area and would not be one of the small schemes contemplated by current Regional Planning Guidance. There would therefore be conflict with various development plan policies as well as with the equivalent policies in the emerging DPD.

Highway Safety

17. All of the turbines would be clearly visible from the A14. It is a road of national and international importance. It carries a substantial volume of traffic and an unusually high proportion of lorries. It is operating above its theoretical capacity with a stress level of over 100% between Huntingdon and Cambridge. The Highways Agency is concerned about the number of accidents on the road and there are plans to improve this part of it which would both increase its capacity and thus reduce tail-end shunts. The Highways Agency could not demonstrate that wind farms were actually the cause of accidents, but still required the improvements to be carried out before the development commenced.
18. The improvements are unlikely to be completed before 2011. The inspector therefore accepted the argument that a Grampian condition would not be appropriate as it would go beyond the life-time of any permission. He was also concerned that such a condition may frustrate the prospects of an alternative scheme in another location. The imposition of such a time restrictive condition was therefore not an option.
19. Nonetheless, the parties agreed there was no evidence that wind farms are inherently hazardous. Neither is there a high existing accident rate on the A14. The crucial factor, however, is that because of the high volumes of traffic, this results in a high total number of accidents, although many of these are minor.
20. While the inspector had not received any evidence that driver distraction from wind turbines elsewhere has previously led to accidents, he did not regard this as necessarily conclusive in all circumstances. Unlike in most cases, this proposal had led to objections from the highway authority. This had been researched by consultants and maintained over many months. On his site visit, the inspector had noted the large number of lay-bys, accesses and variety of road junctions off the A14. This left him in "... no doubt that the volume of traffic is such that a greater concentration is necessary than would be the case if the vehicles were more adequately and safely spaced". The Highways Agency was justified in its concerns.
21. At their closest, the turbines would be little more than 250m from the road. At a height of 100m they would be a striking addition to the scene and could easily draw a driver's

attention. The rotation of the blades ensures they are a significantly more arresting spectacle than say an array of telecommunication masts. The combination of circumstances in this case would be especially critical and there was very little margin for driver error. The development would have a harmful impact on road safety.

Noise

22. The evidence regarding noise proved extremely technical. The Council's concerns were that noise readings were insufficient and should have been carried out at more locations over longer periods in different wind and road conditions. As a result of further surveys carried out by its noise consultant, the Council concluded that eight of the turbines would be omitted from the scheme to make it acceptable.
23. Such a radical change could not be made within the terms of the current appeal. However, the inspector did not consider this was justified on the evidence he had received. The combined effect of advice set out in government guidance is clear and precise and had been followed by the appellant. There would be no harm to the living conditions of local residents. The turbines would be readily audible from the adjacent bridleway, but this consideration was insufficient to outweigh the main conclusion.

Other Matters

24. Other matters that were raised, particularly by other parties included the cumulative impact of these and other wind turbines on the landscape, shadow flicker, ice, loss of agricultural land, property values, energy benefits, employment opportunities, tourism/sightseers and the importance of public opinion. None of these had a bearing for or against the scheme.

Conclusions

25. The inspector therefore found that there were competing issues and that the appeal fell to be determined on the weight to be attached to each of these. In his view, the case essentially turned on the balance between the need for the development and its impact on the landscape. The landscape impact would be too great. The surrounding area would effectively become defined by the turbines to the extent that its identity and diversity would be diminished and its existing sense of place severely compromised. While the landscape may be able to accommodate a smaller number of turbines, he was obliged to consider the proposal as submitted..
26. Mainly for historical reasons, the inspector felt that development plan policies were of little value as they were written without the possibility of schemes such as this in mind. Nonetheless, the inspector was still concerned there would be conflict with the content and purpose of several plan policies, particularly where visual matters were concerned.
27. Having regard to all matters, the appeal should be dismissed

Comment: This inquiry involved a considerable amount of time and work by all those involved on the Council's behalf. None of the Council's witnesses had previously given evidence at a windfarm appeal, whereas the appellant's team had all provided evidence at several appeals. The outcome is therefore

particularly pleasing. The efforts of the SCWF group should also be acknowledged as the group adopted a very professional approach and played a significant role in the outcome of the appeal.

Ms C Romeyer and Mr R Kennedy – Change of use from meadow land to residential garden and retention of garden room (retrospective application) – 2 Manor Farm Barns, Litlington – Appeal allowed. Application for costs dismissed.

1. The appeal site is a converted barn which lies within the village framework. The additional land and the garden room comprise land that lies outside the village framework. The whole site was formerly part of a farm complex. The main issue was the impact on the character and appearance of the countryside and the village conservation area.
2. The garden room is to the rear of the property and is a single storey 'L' shaped detached building clad with weatherboarding and a slate roof. Beyond this is an open grassed field forming an extensive gap between surrounding development. The field is in the conservation area. The field is also defined as an Important Countryside frontage in the local plan. The inspector agreed that the land makes an important contribution to the countryside setting of the village and to the conservation area.
3. Public views of the garden room are limited and when seen across the field, the building is seen against the backdrop of other buildings. It is closely related to the converted barn, is subservient to it and of complementary materials. While it is outside the village framework, the inspector found it was not an intrusive feature and has little impact on either the surrounding countryside or the conservation area. The appeal was therefore allowed (and an extant enforcement notice can now be withdrawn).
4. The appellant applied for an award of costs. This was on the basis that the Council's Conservation Manager had supported the proposal and the Council had failed to produce any specialist or technical advice which overrode that technical opinion.
5. For the Council, it was argued that as the conservation area was part of the countryside, this amounted to a single issue. The inspector had agreed this. While the harm from the scheme may be limited, this had been properly spelled out in the Council's statement and at the hearing. The contribution of the land made to the conservation area and the rural setting of the village had been demonstrated.
6. The inspector noted that the Committee had rejected the advice of its officers. However, both the written and oral evidence was adequately detailed to warrant legitimate concerns. The Council had not acted unreasonably and no award of costs was justified.

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