



Department for
Communities and
Local Government

Ms Marie Stacey
Hallmark Power
Smisby Road
Ashby de la Zouch
Leicestershire
LE65 2UE

Our Ref: APP/Y3425/A.14/2212769
Your Ref: Barnett

21 October 2015

Dear Madam,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL BY MR ANDREW BARNETT
THE INSTALLATION OF 2 NO. WTN 250KW WIND TURBINES WITH AN
OVERALL TIP HEIGHT OF 45M INCLUDING ASSOCIATED TEMPORARY
INFRASTRUCTURE ON LAND NEAR STONE PARK FARM, PINGLE LANE,
STONE ST15 8QT. APPLICATION REF 13/19205/FUL**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, David C Pinner BSc (Hons) DipTP, who made a site visit on 13 January 2015, to inform his consideration of your client's appeal against the refusal by Stafford Borough ("the Council") dated 19 August 2013 to grant planning permission for the installation of 2 no. WTN 250kW wind turbines with an overall tip height of 45m including associated temporary infrastructure on land near Stone Park Farm, Pingle Lane, Stone, ST15 8QT, application ref 13/19205/FUL.
2. On 13 March 2014 the appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990 on the grounds that it involves a renewable energy development.

Inspector's recommendation and summary of the decision

3. The Inspector, whose report is enclosed with this letter, recommended that the appeal be upheld and planning permission granted. For the reasons given below, the Secretary of State disagrees with the Inspector's conclusions and recommendation, dismisses the appeal and refuses planning permission. All paragraph numbers, unless otherwise stated, refer to the Inspector's report (IR).

Procedural matter

Department for Communities and Local Government
Philip Barber, Decision Officer
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4. Following the close of the inquiry the Secretary of State wrote on 19 June 2015 to you, the Council and other interested parties inviting further information for the purposes of his consideration of the appeal. This matter was: the implications of the terms of the Written Ministerial Statement of the Secretary of State on local planning of 18 June for the proposed scheme.
5. The Secretary of State has taken all representations into account in his consideration of this appeal, but does not consider that they raise any new issues requiring circulation to assist his decision. He does not consider it necessary to summarise the representations here or attach them to this letter. Copies of the correspondence can be made available upon written request to the address at the foot of the first page of this letter.

Policy and Statutory Considerations

6. In deciding the appeal, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan comprises the Plan for Stafford Borough 2011-2031.
7. The Secretary of State has had regard to his Written Ministerial Statement (WMS) of 18 June 2015. The statement explained that the Secretary of State was setting out new considerations to be applied to proposed wind energy development. Subject to a transitional provision, the statement explained that the new considerations had immediate effect. Given its relevance to this case, the Secretary of State attaches substantial weight to the statement as the most recent expression of government planning policy for onshore wind development.
8. The statement includes a transitional provision to apply where a valid planning application for wind energy development had already been submitted to a local planning authority at the date on which the statement was made and the development plan does not identify suitable sites. In such instances, local planning authorities can find the proposal acceptable if, following consultation, they are satisfied it has addressed the planning impacts identified by affected local communities and therefore has their backing. In applying the transitional provision to this appeal proposal the Secretary of State has considered the representations reported in the Inspector's Report and the correspondence referred to in paragraph 4 and 5 above.
9. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ("the Framework") and the planning guidance published in March 2014; the National Policy Statements (NPS) for Energy (EN-1) and Renewable Energy (EN-3); the Community Infrastructure Levy (CIL) Regulations 2010 as amended and Planning Practice Guidance for Renewable and Low Carbon Energy (2013). The Secretary of State has also taken into account the Written Ministerial Statements on renewable energy published in June 2013 by the Secretaries of State for Energy and Climate Change and for Communities and Local Government, and the Written Ministerial Statement on renewable energy published by the Secretary of State

for Communities and Local Government in April 2014; and the Historic England guidance entitled “The Setting of Heritage Assets” as updated in July 2015.

10. In accordance with section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA), the Secretary of State has paid special regard to the desirability of preserving listed structures or their settings or any features of special architectural or historic interest which they may possess. The Secretary of State has also paid special attention to the desirability of preserving or enhancing the character or appearance of conservation areas, as required by section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Main Considerations

11. For the reasons given by the Inspector at IR50-54, the Secretary of State concludes that the main issues in this case are those set out by the Inspector at IR55, and the provisions of his Written Ministerial Statement of 18 June 2015.

Landscape impact

12. The Secretary of State agrees with the Inspector, for the reasons given at IR56-62, that the proposal would have only limited effects on landscape and townscape quality. He thus concludes, in agreement with the Inspector at IR62, that the proposal is compliant with, and supported by, Policies N3 and E2.

Effect on the Moddershall Valley Conservation Area

13. Having considered the Inspector’s conclusions at IR63-69 the Secretary of State does not consider that the proposed turbines would have any effect on the character or appearance of the Moddershall Valley Conservation Area or its setting or on the setting of the listed mills.

Effect on the living conditions of nearby residents

14. The Secretary of State agrees with the Inspector, for the reasons given at IR70-73 that the visual impact of the proposed turbines would not harm the living conditions of nearby residents.
15. He further agrees, for the reasons set out at IR74-76, that, subject to the condition set out at IR77, and at paragraph 5 of Annex A to the IR, the noise impact of the turbines would not have an unacceptable impact on local residents.
16. For the reasons given by the Inspector at IR78-79, the Secretary of State concludes, in agreement with the Inspector, that there is no evidence that the proposed turbines would have impacts on the health of local residents. He thus agrees with the Inspector at IR79 that the concerns about health impacts raised by objectors should not weigh against the proposal.
17. The Secretary of State thus concludes that the proposed turbines would not have an effect on the living conditions of nearby residents, and thus would be supported by Policy N3.

Other Matters

18. For the reasons given at IR81 the Secretary of State agrees that there is no evidence to suggest that the turbines would have any adverse impacts on nature conservation interests. He further agrees, for the reasons given at IR82, that the efficiency of wind turbines, the means by which they are financed and the income derived from them, are not material planning considerations. For the reasons given at IR84, the Secretary of State agrees that a Staffordshire County Council policy document relating to separation distances from residential properties, and a House of Lords Private Member's Bill on separation distances, as referred to at IR84, are not material considerations in this appeal.

Benefits

19. The Secretary of State agrees with the Inspector at IR83 and IR88 that the proposal would have public benefits in terms of electricity supply, contribution to meeting international commitments on low carbon or renewable energy production, security of supply and contribution to farm diversification.

Planning Balance and Conclusion

20. The Secretary of State agrees with the Inspector at IR88 that the proposal has the benefit of contribution to farm diversification and in terms of its compliance with development policies in relation to renewable energy development and farm diversification. He concludes that the proposal would be in accordance with the development plan as a whole. He further concludes that the presumption in favour of sustainable development would apply to this proposal. The Secretary of State has then gone on to consider whether there are any other material considerations which would indicate that the appeal should nonetheless be refused.
21. Having applied the transitional provision set out in the June 2015 WMS, the Secretary of State is not satisfied that the planning impacts identified by affected local communities have been addressed. In their responses to his letter of 19 June, a number of members of the affected community repeated the concerns which they had previously expressed about the planning impacts of the scheme. These include the effects on the landscape and townscape quality. Having concluded at paragraph 12 above, in agreement with the Inspector at IR62, that the proposal would have some impacts on landscape and townscape quality, he concludes that those planning impacts as identified by the affected communities have not been addressed. As such he finds that the proposed scheme would not meet the transitional arrangements set out in the WMS of 18 June 2015. The Secretary of State gives significant weight to this non-compliance.
22. Having weighed up all relevant considerations, the Secretary of State concludes that the factors which weigh in favour of the proposed development do not outweigh its shortcomings and the conflict identified with national policy. He considers that there are material considerations of sufficient weight which would indicate that the appeal should be dismissed.

Conditions

23. The Secretary of State has had regard to the schedule of conditions at Annex A to the IR. He is satisfied that the Inspector's proposed conditions are reasonable and necessary and would meet the tests of the paragraph 206 of the Framework.

However, he does not consider that they would overcome his reasons for dismissing this appeal.

Formal Decision

24. Accordingly, for the reasons given above, the Secretary of State disagrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses planning permission.

Right to challenge the decision

25. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.

26. A copy of this letter has been sent to the Council. A notification letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

Philip Barber

Authorised by the Secretary of State to sign in that behalf

Report to the Secretary of State for Communities and Local Government

by David C Pinner BSc (Hons) DipTP

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

Date: 17 February 2015

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

APPEAL BY MR ANDREW BARNETT

The installation of 2 no. WTN 250kW wind turbines with an overall tip height of 45m
including associated temporary infrastructure.

Land near Stone Park Farm, Pingle Lane, Stone, ST15 8QT

Site visit made on 13 January 2015

Land near Stone Park Farm, Pingle Lane, Stone, ST15 8QT

File Ref: APP/Y3425/A/14/2212769

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Land near Stone Park Farm, Pingle Lane, Stone, ST15 8QT

- 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 Andrew Barnett against the decision of Stafford Borough Council.
- The application Ref: 13/19205/FUL, dated 19 August 2013, was refused by notice dated 5 November 2013.
- The development proposed is the installation of 2 no. WTN 250kW wind turbines with an overall tip height of 45m including associated temporary infrastructure.

Summary of Recommendation: That the appeal be allowed, and planning permission granted subject to conditions.

Introduction

1. The appeal relates to a proposal to install two 250kW turbines on agricultural land close to Stone Park Farm. According to paragraph 1.6 of the appellant's Grounds of Appeal statement, the combined output of the two turbines would be the equivalent of the electricity used by 200 homes with an overall carbon saving of 380 tons per annum. The Council has not disputed these figures. The turbines would be connected to the National Grid and would provide additional income for the farm, contributing to its overall viability.
2. Supporting information submitted with the application includes a landscape and visual impact appraisal (LVIA), including photomontages from various local viewpoints; an ecological assessment and a noise assessment. Additional photomontages were produced for the appeal in view of the Council's concern that the proposed development would have an adverse impact on the setting of the Moddershall Valley Conservation Area.
3. Although no technical objections to the scheme were raised by consultees, the planning application attracted a large number of local objections. Nevertheless, it was recommended for approval by the Council's planning officers. The Council's members took a different view and refused to grant planning permission. In summary, the reasons for refusal were that the scheme would harm the character and appearance of the countryside and the setting of the Moddershall Valley Conservation Area and that it would result in a harmful loss of amenity to local residents.

The Site and Surroundings

4. The proposed turbines would be located on agricultural land associated with Stone Park Farm, which lies about 1km to the east of Stone town centre. Stone itself lies within the valley of the River Trent and is on the route of important transport links to other parts of the country, notably the A34, the Trent and Mersey Canal and the West Coast Main Line. The urban area is more extensive on the southern side of the Trent valley than on the northern side (where Stone Park Farm is situated), which is more rural in character.
5. To the west of the appeal site lies an incised, well-wooded river valley through which runs the A520. There are several old water mills along the valley, where flint was ground for use in the pottery industry. These mills, their associated

infrastructure and the landscape in which they sit are the focus of the Moddershall Valley Conservation Area, the extent of which is shown on the Conservation Area plan which is included as the final page in the Council's questionnaire bundle. At its nearest, the more westerly of the proposed turbines lies about 300m from the Conservation Area boundary.

6. The proposed turbines would be located a little over 250m to the north of Stone Park Farm. The farm house would be the closest residential building to the turbines, being about 230m from the nearer of the two and about 260m from the second turbine. This is the home of the appellant and is therefore to be regarded as a financially involved property from the point of view of making any assessment regarding the effect of the turbines on the living conditions of its occupants. The nearest non-financially involved property is about 440m to the north-west of the nearer of the turbines and about 610m from the second turbine. There is a modern housing estate (Aston Lodge Park) at the edge of the urban area, about 600m to the south of the more easterly turbine.
7. The turbines would be about 225 metres apart with an unmade road (Redhill Road) running between them. This is essentially a farm track that is part of the local network of public footpaths. There is a cluster of three telecoms masts, each said to be around 15m in height, close to the farm, which has an extensive range of farm buildings. The most prominent views of the proposed turbines would be from Redhill Road from where they would be seen at close quarters, Views of the turbines back towards the farm would be in the context of the farm buildings and telecoms masts. Nevertheless, they would be the tallest structures in the vicinity.
8. The sites of the proposed turbines are clearly beyond the urban area and within open countryside. This is characterised by rolling pasture land and arable fields with frequent hedgerows and trees and less frequent pockets of woodland. It is appropriately described as settled farmland in the Staffordshire Landscape Character Assessment as set out in *Planning For Landscape Change: Supplementary Planning Guidance to the Staffordshire and Stoke-on-Trent Structure Plan 1996 – 2011 Landscape Descriptions*, the relevant part of which is appended to the Council's appeal statement.

Planning Policy

9. The *Stafford Borough Local Plan 2001* (referred to in the Council's decision notice) has been superseded by *The Plan for Stafford Borough 2011 – 2031* (*The Plan*) which was adopted on 19 June 2014. At the time of the Council's decision, *The Plan* had not been adopted. The parties have been provided with the opportunity to comment following the adoption of *The Plan*. It is now the relevant development plan and has statutory force accordingly. The policies mentioned in the decision notice are no longer of any effect and I shall not refer to them. In any case, there were no saved policies in the Local Plan 2001 relating to renewable energy, so it was out of date in that respect.
10. Spatial Principle 1 (SP1) of *The Plan* acknowledges and adopts the presumption in favour of sustainable development in the National Planning Policy Framework (NPPF). SP6 aims to achieve rural sustainability by promoting (amongst other things) a sustainable rural economy; conservation or improvement of the rural environment and the use of sources for renewable energy (RE).

11. Policy N3 supports schemes for the generation of RE subject to criteria, including that the technology is suitable for the proposed location, does not cause harm to residential amenity, the significance of heritage assets and their setting and has limited adverse effects on the surrounding landscape and townscape character.
12. Policy E1 aims to sustain the local economy including by the support of the rural economy in accordance with SP6 and encouraging farm/rural diversification. Policy E2 encourages sustainable rural development including the diversification of the agricultural economy and the provision for renewable energy generation in accordance with policy N3.
13. Paragraph 93 of the NPPF says that supporting the delivery of renewable and low-carbon energy and associated infrastructure is central to the economic, social and environmental dimensions of sustainable development. Paragraph 98 says that applicants should not be required to demonstrate the overall need for renewable or low carbon energy and that applications should be approved if their impacts are, or can be made, acceptable.

The Case for the appellant

14. The proposed wind turbines would provide a valuable form of farm diversification, ensuring the future sustainability of Stone Park Farm. The electricity generated would be equivalent to that used by 200 homes per annum with an overall carbon saving of 380 tons per annum.
15. There are no national or international landscape designations relating to the surrounding area and the sites for the proposed turbines have been carefully selected having regard to other development in the vicinity. They are to be sited about 100m from three existing telecoms masts and would be visually related to the range of farm buildings. They would be about 500m from the edge of the urban area and could be regarded as having a semi-urban context with views of the urban area featuring in longer distance views of the turbines from some directions. There are high voltage power lines crossing the landscape to the north of the appeal sites and these too are part of the landscape context in which the turbines would be viewed. The landscape is essentially a working agricultural landscape with the capacity to absorb some wind turbines of a modest scale, such as those proposed, without causing any more than a moderate landscape effect within about 0.5km of the turbines. The landscape effect would be minor at distances over 0.5km.
16. The Moddershall Valley Conservation Area is focussed around a series of water mills which were important in the development of the pottery industry. The mills are in a deep, well-wooded valley and no views of the turbines from the mills would be possible. The Council's Conservation Officer was satisfied that the proposed turbines would have no effect on the character or appearance of the Conservation Area or its setting and raised no objections to the scheme.
17. The scheme was recommended for approval by the Council's officers. The officers' report noted that the Landscape and Visual Impact Assessment (LVIA) submitted with the scheme had been carried out on a well-established, recognised and objective basis, has been professionally executed and that its conclusions provide a reasonably reliable basis in which to understand and assess the impact of the proposed development (page 5 of the officers' report). It concluded that the scheme would not have adverse consequences on the visual

and landscape qualities of the surrounding area. The report concluded that there would be no adverse impact on residential amenity through noise, shadow flicker or visual impact. It records that no objections to the scheme on technical grounds had been raised by consultees including the Highways Authority, Natural England, National Air Traffic Services and the Defence Infrastructure Organisation or from the Council's Environmental Health, Biodiversity and Conservation Officers.

18. The appellant recognises that the Committee is not bound to accept its officers' recommendations. In this case, the Council's statement remains silent on the reasons why the members of the Committee considered that the evidence put forward by qualified landscape consultants in the application, and agreed with by the Council's officers, should be afforded so little weight. All planning decisions are, by their nature, balanced. In this case, inappropriate weight has been given to certain factors such that the Council's decision is not objective but inappropriately distorted. It is apparent that the decision to refuse to grant planning permission was made to appease concerted public opposition. It was made without any reliance on professional technical advice and many issues raised by objectors were either technically incorrect or were not material planning considerations.
19. The alternative photomontages produced by Mr Miles ICE merely work on estimates of relative heights. Several montages appear to show photos taken from higher ground with telephoto lens which appear to artificially distort the impact on foreground buildings. They give a wholly unrealistic and unrepresentative impression of the visual impact of the turbines.

The Case for the Council

Landscape impact

20. The appeal site and its surroundings comprise open countryside. As agriculture dominates, the area accommodates few other forms of development, as can be expected in an area of development restraint. The surroundings comprise attractive countryside which provides a positive setting to the adjacent Moddershall Valley Conservation Area.
21. There is a network of public rights of way in the locality which enable people to move through and enjoy the countryside. Apart from the large scale overhead electricity lines and pylons about 1km to the north of the appeal site, there are no vertically emphasised developments comparable to the proposed turbines. The landscape has an essentially horizontal character.
22. The overall height, solidity and nature of the proposed turbines would make them appear as overtly unusual, man-made engineered structures. The moving blades would draw the eye and the resultant effect would be at odds with and harm the rural surroundings. The turbines cannot be considered to be sympathetic to the character and appearance of the rural surroundings and would have an unacceptable impact on those qualities.
23. The proposed turbines would be at odds with the man-made and natural features of this rural part of Stafford Borough. The scale, form, materials and external appearance of the turbines would contrast starkly with the irregular shape of trees, hedgerows and agricultural fields in what is essentially a horizontal,

undeveloped landscape. The turbines would be readily visible from the surrounding footpath network and their visual impact could not be mitigated by landscape planting. Walkers on the footpaths would find the turbines dominating and overbearing, with a negative impact on their experience of walking through what is currently an attractive, undeveloped and tranquil rural area.

Impact on the Moddershall Valley Conservation Area

24. The Conservation Area is based around cottage industries in modest buildings utilising water power. The watercourses, mill ponds and mill races are integral to the setting of the mills and to the historic interest of the Conservation Area, having powered earlier corn mills since mediaeval times. The water systems and landscape add a further layer of historic interest and the rural valley contributes to the significance of the designation. The mills were important in the development of the pottery industry, being used for the grinding of flint. They were dependent on riverside locations for water power and for water for the grinding pans. This resulted in a dispersed character within a landscape of high aesthetic quality.
25. Paragraph 132 of the NPPF makes it clear that the significance of heritage assets can be harmed or lost through the alteration or destruction of the asset or development within its setting. In this case, the scale, form and appearance of the turbines cannot be compared to the open character of the Conservation Area and its associated small-scale development. As a consequence, the proposed development would have a harmful impact on the Conservation Area.
26. The northern-most turbine would be only about 240m from the Conservation Area boundary. From a short distance, both turbines would be visible from Redhill Lane in public views that would include land which contributes to the setting of the Conservation Area. In such views, the scale and alien nature of the turbines would contrast with the essentially natural, open countryside character that the Conservation Area comprises. The stark impact of the turbines on the special character and appearance of the Conservation Area would amount to material harm.

Residential amenity

27. The physical characteristics of the turbines would represent overbearing structures that would unacceptably dominate views from residential properties and their gardens, leading to an unacceptable reduction in the level of visual amenity currently enjoyed by nearby residents. The physical presence of the turbines, located on elevated land would overtly contrast with the undeveloped rural area and the essentially kinetic nature of the scheme would be a particular draw on the eye, emphasising the large scale presence and alien nature of the development.
28. Intervening hedgerows and trees would not screen the impact of the development, especially in the autumn, winter and early spring months. Additional landscape planting would not provide an effective screen or backdrop to the proposed turbines. In this context, the turbines could not be assimilated into their surroundings which would represent an incongruous pair of large scale, closely grouped pieces of equipment that would adversely impact residents' visual amenity, experience and perception of the countryside.

Written Representations

29. With the exception of a response from the Defence Infrastructure Organisation, all representations made in relation to the appeal are expressing objections to the scheme. There were many more representations (nearly all objections) made to the planning application and these are included as attachments to the Council's Questionnaire response. They are also summarised in the officer's report to the Planning Committee, also included as an attachment to the Questionnaire.

Sir William Cash, MP

30. Considers that the proposed turbines would be a blight on the local area and well within views from a local housing estate. The turbines would have a negative impact on property values, strongly affect residential amenity and would have a major impact on the surrounding landscape and townscape character. There are very strong objections from his constituents due to the detrimental effects of the visual aspect, noise and amenities to the people in the nearby areas.

31. He refers to a December 2013 press release from RenewableUK (the wind industry trade association) which acknowledges the occurrence of "Other Amplitude Modulation (OAM)". The press release says that OAM is rare but solutions have been identified in the form of software adjustments that alter the angle of the turbine blades when OAM could occur. They have worked with the Institute of Acoustics to develop a planning condition which would require developers to resolve any instances of OAM.

Richard Stuart

32. Mr Stuart is a resident of one of the houses on the northern edge of the modern residential estate to the south of the appeal sites. In summary, his points of objection are:

- The turbines would be a blot on the landscape, visible from all over Stone and the surrounding area.
- The turbines would be visible from his home. He paid a premium for his house because of the pleasant view. The turbines would adversely affect the value of his property.
- Staffordshire County Council has a policy document advising that turbines should not be sited within 2km of town centres or housing developments. The siting of 2 turbines within 1.2km of Stone town centre and 600m of a major residential estate would set a dangerous precedent for turbines to be sited close to towns, villages and homes.
- Effect on local wildlife, especially birds.
- Pingle Lane is unsuitable for traffic generated by the scheme.
- Potential danger to hot air balloons flying over the area from Trentham Gardens and Shugborough.
- Noise from the turbines would be unacceptable and inescapable.
- Adverse effect on health because of "Wind Turbine Syndrome", with reference to a study by a New York paediatrician published in 2009 on a NHS website.
- Comments on the efficiency and effectiveness of on-shore wind turbines and questions the green credentials of such developments.

Robert Chadwich

33. Objects on grounds of potential health effects and refers to research papers by Roy D Jeffery MD FCFP, a Canadian Family Physician, and by Alec N Salt PhD of the Cochlear Fluids Research Laboratory of the University of Washington, St Louis. He also refers to a House of Lords Bill which, if it became law, would establish a requirement for a minimum distance of 1000m between any residential property and any wind turbine of 25m to 50m height. He has attached copies of the relevant documents to his letter of objection.

Mrs J Fearn

34. Objects on the grounds that the turbines would have an adverse impact on the settings of the local heritage assets, the Moddershall Valley Conservation Area, the Grade II* listed St Michael's Church and Priory and the Georgian canal town of Stone. She refers to a proposal for a larger turbine by the same company 1.2 km further along the hillside and is concerned about cumulative visual impact.

Mrs Jean Baldwin

35. Concern about noise from the proposed turbines.

Mrs Sally Cartwright

36. Mrs Cartwright makes the following points:
- Pingle Lane is unsuitable for construction traffic and is used as a pedestrian route by locals and, in particular, school children.
 - Claims that Government Guidance published in 2013 says that local people's concerns should take precedence over the need for renewable energy.
 - Ministers have said that wind turbines are scarring the British landscape and have turned public opinion against the renewable energy agenda.
 - The scheme would have no benefits for the local community and is merely a speculative, lucrative business opportunity for the appellant and his backers.
 - Harmful visual impact on the Aston Lodge Park estate and Stone itself.

Laurence Nisbet

37. Mr Nisbet claims to represent the views of the local community, but he has not said in his letter what, if any, position of standing he has in the local community that would entitle him to represent any views other than his own. Nevertheless, his objections reflect those of many people who objected to the planning application and have made representations on the appeal.
38. Mr Nisbet claims that the photomontages produced by the appellant in support of the scheme are unrepresentative of the impact that the turbines would have on the local area. He has produced a series of photomontages prepared by Mr Miles ICE. These use the telecoms masts as references for the height of the turbines. He says these photomontages more accurately reflect the likely impact of the turbines on the local area. He is concerned that the turbines would have an adverse impact on the residential amenities of residents of the Aston Lodge Park estate and that their visual impact would be harmful to the settings of the Moddershall Valley Conservation Area and of many listed buildings within Stone itself.

Jackie Burwood

39. Makes no specific objection but it can be inferred that she is concerned about the visual impact of the proposed turbines when viewed from her property.

Mr and Mrs Moore

40. Mr and Mrs Moore object on several grounds:
- The decision of the Planning Committee reflected the views of the local community and must be respected.
 - The developer chose not to make a local appeal before appealing to the Planning Inspectorate.
 - The scheme would have a significant impact on visual amenity directly at their house and from many other areas in the locality.
 - The appellant's photomontage representations are disingenuous and potentially fraudulent and ignore the clear reference to an existing 12m (sic) telephone mast in scaling the impact of the 45m turbines.
 - The development would add a new, significant and potentially continuous noise pollution into this quiet rural environment.

Cyril and Susan Sparrow

41. Object on the grounds of inadequate consultation with the local community and effect of the turbines on the appearance of the Moddershall Valley Conservation Area and the town of Stone.

Luisa Phillips

42. Objects on grounds of visual impact of the proposed turbines, including on views of listed buildings in Stone, particularly St Michaels and Wulfad's Church. Also objects on grounds of noise, including ultrasound.

Jeremy and Vivien Slann

43. Concerned about the effect of the scheme on the Moddershall Valley Conservation Area and the detrimental effect it would have on local residents. They point out that the proposed turbines have limited generating capacity and that 4000 similar turbines would be needed to replace the output of the nearest coal-fired power station, which is Rugeley B. They accept that alternative sources of energy are needed, but it should not be at the expense of the local community and a beautiful conservation area.

Defence Infrastructure Organisation

44. The MOD raised no objections to the planning application for this proposal. They have reviewed their response in light of the appeal and again raise no objections, subject to being advised of the date the development commences, the maximum height of the construction equipment and the latitude and longitude of the turbines erected.

Scott Webster, Beverley Green and Natalie Green

45. They consider that the photomontages produced by the Campaign Group more accurately represent how the turbines would appear. They are concerned about visual impact and noise and mention other potentially adverse effects including effect on house prices, harm to wildlife, radio interference, light pollution if height

warning lights are needed for aircraft; strobing, risk to residents arising from aircraft accidents and electromagnetic interference.

Richard Myers

46. The turbines would blight the appearance of the surrounding countryside. This is not an industrial area - electricity generation is an industrial activity which has no place this close to peoples' homes or within visibility of areas of nature conservancy such as Moddershall Valley.

Mr and Mrs Broomhall

47. The scheme would set a precedent. Wind turbines are noisy. Wind turbines kill wildlife. Wind turbines reduce landscape value. The infrastructure is inadequate to move the construction materials to the site. Wind turbine syndrome is harmful to people's health. Wind energy is unreliable. There is no perceived public benefit, only benefit to the landowner which is funded out of the general public's energy bills.

Helen Martin

48. Concerned about wind turbine syndrome, noise and effect on property values. It is not a reliable source of energy.

Petition

49. A petition of local people has been submitted objecting to the scheme on the grounds that, by reason of their siting, size and appearance, the proposed wind turbines would detract from the rural character of their surroundings and would be visually intrusive and overly conspicuous.

Inspector's conclusions

50. Various points have been made in the representations which need to be addressed at the outset. Firstly, the photomontages submitted in support of the scheme have been produced by landscape professionals (who are bound by a code of professional conduct) to industry standards. I understand that this means that 3D mapping data has been used to produce computer-generated wireframe representations of the appeal sites. These show the topography of the receiving landscape without trees, buildings or similar features. The position and height of the turbines can be input into the wireframes, again using computer software, to give an accurate 3D representation of the turbines in the modelled landscape. Using appropriate software, the wireframe data can then be superimposed onto photographs of the actual landscape to take account of any vegetation or buildings that are present. The position from which the photographs were taken, the height of the camera, the type of lens and focal length are all recorded in each photomontage representation.
51. The objectors' photomontages are not prepared from 3D mapping data or using software to position the turbines accurately in a modelled landscape. The positions of the viewpoints are not recorded, or the elevation, lens type and focal length of the camera used for the photographs. The representation of the turbines is based on the height of telecoms masts which have not been measured and it is not clear if, or how, perspective has been taken into account, given that

the proposed turbines are located further away from the housing estate than the telecoms masts.

52. On this basis, the photomontages submitted in support of the scheme are likely to be representative of the landscape impact of the proposed turbines whereas the objectors' photomontages are likely to be flawed, especially if a telephoto lens has been used for the base photographs as the appellant suggests.
53. Secondly, several objectors refer to a perception that the proposed turbines would have a negative effect on property values. This is not a legitimate planning concern and cannot be given any weight.
54. Thirdly, many objections are based on the proposed turbines having an adverse impact on views from residential property. It is well established that there is no right to a view and the simple fact that either or both of the turbines might be seen from a particular property is not a reason to refuse to grant planning permission. If, however, views and other effects of the proposed turbines were to make nearby houses intrinsically unpleasant places to live, that would be an important planning consideration.
55. Bearing these points in mind, I consider that the main issues are firstly, the effect of the proposed development on the local landscape, secondly, its effect on the setting of the Moddershall Valley Conservation Area and thirdly, its effect on the living conditions of nearby residents. Any adverse impact would have to be balanced against the benefits of RE.

Landscape impact

56. The Council's observation that the proposed turbines are overtly unusual man-made engineered structures is a criticism that could be levelled at any wind turbine. By their nature, they display none of the crafts or traditions which are associated with rural areas and they are bound to have an impact on the landscape which many people would regard as negative. The same could be said of much of the infrastructure needed to support modern living. Of necessity, rural areas have had to accommodate all sorts of overtly engineered structures such as TV and radio masts, mobile phone masts, electricity transmission lines, reservoirs, dams, motorways and, more recently, renewable energy schemes including clusters of wind turbines, sometimes up to three times the height of the turbines proposed in this case. The majority of on-shore wind turbines I have seen are located in rural areas away from residential properties, so it is not unusual to see turbines in rural areas.
57. Policy N3 of *The Plan* supports RE projects, subject to criteria, including that the scheme should have only limited effects on landscape and townscape quality. The policy therefore recognises that there would inevitably be some adverse impact.
58. A reasonable judgement of the likely impact of the scheme can be gained from the photomontages included in the LVIA. These amply illustrate the character and appearance of the receiving landscape and show that the proposed turbines would be very minor elements of distant views. From some directions, the turbines would be viewed with the urban area in the foreground, so they would not always be seen in an entirely rural context. Where seen with the urban area in the foreground, the turbines would have only a minor impact and would not

have any significant effect on the quality of the townscape, including on any listed buildings within the historic core of the town. It is perhaps of note that, despite its claims that the turbines would have harmful visual impacts, the Council has not submitted any evidence, such as alternative professionally-produced photomontages, that contradict the findings of the LVIA.

59. As the photomontages show, there are many trees in this landscape. Although the turbines are shown to be taller than any of the trees near to them, I do not consider them to be out of scale with the landscape. The fixed part of the turbines would be 30m in height, which is within the average height range of several common species of trees, such as oak, ash, beech and sycamore. I am aware that all of these can exceed 30m in height. Having said that, there has been no survey carried out to determine the heights or species of the trees close to the appeal sites and the photomontages should therefore be relied upon to judge the effects of the proposals.
60. Many of the objectors are from the Aston Lodge Park estate. The edge of the estate borders onto the open countryside beyond the urban area and Aston Chase is about midway along this edge. Viewpoint I is a good representation of how the turbines would appear when viewed from houses on Aston Chase and demonstrates that the turbines would be seen against the sky. The turbines and blades would be finished in matt grey, which is a colour chosen to match the predominant colouring of the sky, thereby diminishing their visual impact under the most common weather conditions.
61. Notwithstanding that the turbines would be more readily visible against a blue sky, the photomontage demonstrates that they would occupy a very minor part of the wider view and would not appear out of scale with the trees along the skyline. Views from elsewhere on the estate would be available, but would not be affected to any greater extent than the views from Aston Chase.
62. The photomontage evidence demonstrates clearly that the proposed turbines would have only limited effects on landscape and townscape quality. In that regard I conclude that the scheme is in compliance with, and supported by, Policies N3 and E2.

Effect on the Moddershall Valley Conservation Area

63. As already mentioned, in response to the Council's concerns about the possible effect of the scheme on the Moddershall Valley Conservation Area, the appellant has submitted additional photomontages which include four viewpoints within the Conservation Area. VP4 does not relate to the Conservation Area and has been included to show that in views of the appeal sites over the Aston Lodge Park estate, the turbines would be lost in a jumble of chimneys and TV aerials.
64. VP5 is taken from the A520 from a point about 250m from Coppice Mill, which is one of the listed mills that are important to the character and history of the Conservation Area. This viewing point is at a higher elevation than Coppice Mill, from where the proposed turbines would be hidden by trees and the steep valley sides. Although the turbines would be visible from this stretch of the A520, it would be only for a very short distance. The wooded setting of the Conservation Area would be unaffected by this limited view of the proposed turbines.

65. VP1 is taken from near Splashy Mill, another of the old mills which are an essential part of the Conservation Area's historic interest. The turbines would not be visible from here, being obscured by trees. They would have no effect on the setting of Splashy Mill.
66. VP2 is taken from the centre of Moddershall village, through a convenient gap in a roadside hedge. The hedge would obscure many views towards the turbines. In this view, which is 2.4km from the appeal sites, one of the turbines would be hidden by trees on the skyline and the other would be barely visible. A line of pylons in the near distance, and cutting through the Conservation Area, is a much more prominent feature of the landscape. I do not think that the one visible turbine would be noticeable to anybody who was not specially looking for it.
67. VP3 is taken from a point above the steep valley. The turbines would be obscured by vegetation and would have no effect on the character or appearance of the Conservation Area.
68. It has been suggested that the turbines would adversely affect the setting of the Conservation Area. In the section entitled "Significance of the Moddershall Valley Conservation Area", the Council's appeal statement sets out that the landscape setting of the Conservation Area is an important part of its overall character and historic interest. However, it acknowledges that, because of this, the boundary of the Conservation Area has been drawn to encompass significant areas of the landscape. It seems to me, therefore, that the landscape setting that is important to the character of the Conservation Area has been included within it. The nearer of the proposed turbines would be more than 250m beyond the boundary of the Conservation Area. If this part of the landscape had been considered at the time of designation to be important to the setting of the Conservation Area, it would surely have been included within it.
69. In my view, the additional photomontages demonstrate convincingly that the proposed turbines would have no significant effect on the character or appearance of the Moddershall Valley Conservation Area or its setting.

Effect on the living conditions of nearby residents

70. Common themes for objections relating to residential amenity are that the turbines would be an unacceptable visual intrusion and would generate unacceptable levels of noise. The photomontages, and in particular viewpoint I (figures 13 and 13A of the LVIA) are typical of the views residents living at the edge of the Aston Lodge Park estate would have of the proposed turbines. Their view would remain landscape dominated and the turbines would occupy a very small part of the overall panorama.
71. The turbines would be about 600m from the dwellings and would not appear out of scale with the trees along the ridge of the high ground. The occupants of houses on the edge of the estate would still have extensive views over open countryside whether the turbines were there or not. Residents of houses within the estate are likely to have only limited views, principally of the houses opposite. The fact that occupants of these houses do not enjoy such attractive or extensive views as those on the edge of the estate clearly does not make their homes intrinsically unsatisfactory places to live.

72. The argument that the living conditions of local residents would be unacceptably harmed by the visual impact of the proposed turbines would, in effect, rely on a finding that inserting the turbines into views of the countryside (enjoyed by the occupants of dwellings on the edge of the estate) would make the affected properties far less attractive places to live than properties in the same area with no views at all to speak of, other than views of the houses opposite. This is an untenable argument in this case. In relative terms, residents might consider that the turbines would make their views less attractive than now, but in absolute terms, their presence in views from some houses would clearly not make any of those properties an intrinsically unpleasant place to live.
73. The Council's case for the rejection of the scheme on the grounds of harm to residential amenity relies on unsubstantiated assertions. They have produced no evidence to suggest that the appellant's photomontages are unrepresentative of the likely impact that the scheme would have on residents' visual amenity. It is clear to me that objections on this ground are essentially objections to something appearing in views from properties that residents would prefer not to be there. The simple protection of views is not a consideration to which any weight can be attached. I therefore conclude that the visual impact of the turbines would not harm the living conditions of nearby residents.
74. Although many residents refer to the potential of noise disturbance from the turbines, the only technical assessment of potential noise impact is that provided with the application.
75. Paragraph 015 of the 2014 Planning Practice Guidance (PPG) advises that the report *The assessment and rating of noise from wind farms* (ETSU-R-97) should be used by local planning authorities. The acoustic report submitted with the application was carried out in accordance with ETSU-R-97 and follows the guidance detailed in the Institute of Acoustics document *A Good Practice Guide to the Application of ETSU-R-97 for the Assessment and Rating of Wind Turbine Noise*. This guide is endorsed by the Department of Energy and Climate Change, as noted in paragraph 015 of the PPG. The acoustic report considers the noise levels at the nearest property, which is the financially involved Stone Park Barn and the nearest non-financially involved (NFI) property which is approximately 440m from the nearer of the turbines. The houses on the Aston Lodge Park estate are further from the turbines than the nearest NFI property and can therefore be expected to be less affected by any noise immisions (i.e. noise as measured at the receiving end, rather than emissions measured at the source).
76. The acoustic report concludes that the calculated turbine noise levels would be below both the daytime and night time noise levels recommended by ETSU-R-97 at the financially involved property (where higher noise limits apply) and would be within the daytime and below the night time noise levels at the nearest NFI property.
77. Contrary to the PPG, the Council's Environmental Health consultation response says that noise reports under ETSU-R-97 will not usually be accepted and recommends a condition limiting noise received at the curtilage of any other premises to 5dB above existing background noise levels, day or night. The appellant has no objections to the Council's suggested condition, which is based on this advice.

78. Several objectors refer to research on infrasound and Other Amplitude Modulation, which has been associated with wind turbines. The articles submitted in support of the objections refer to large or industrial wind turbines, but do not define what those terms mean.
79. Wind turbines have been part of the British landscape for a number of years and latterly, there has been a rapid increase in their numbers. It could be expected that if the health concerns raised in these and similar articles had proved to be a common occurrence, more research would have been carried out in this country and specific Government guidance would have been issued. There is no evidence to suggest that the proposed turbines would cause health problems and, if accepted without any further evidence of potential harm, these non-specific claims could apply to every other proposal for a wind turbine. My view is that these concerns should not weigh against this scheme.
80. Taking all of these matters into account, I conclude that the proposed wind turbines would not have any significant effect on the living conditions of nearby residents and would be supported by Policy N3 in this respect.

Other matters

81. Other matters raised in the objections include the effect of the turbines on wildlife. The application was accompanied by an ecological assessment, which includes an Extended Phase 1 Habitat Survey undertaken on site by a qualified ecologist. The results of the Ecological Assessment have been accepted by Natural England and by the Council's Biodiversity Officer and no objections were raised. There is no contrary evidence to suggest that the turbines would have any adverse impact on nature conservation interests.
82. The efficiency of wind turbines compared to other methods of generating electricity, the means by which they are financed and the income derived from them are matters that may be relevant to the Government's energy policy, but are not material to the planning considerations.
83. In response to claims that the scheme would have no public benefit, it should be noted that the electricity generated by the proposed turbines would be fed into the National Grid. All consumers who rely on electricity supplied from the National Grid would benefit from the scheme in the sense that the electricity would contribute to the available supply of electricity. In addition to an international commitment to increase substantially the proportion of electricity generated by low carbon or renewable means, security of supply is an important objective of the Government's energy policy. Diverse, dispersed, small-scale electricity generation is an important contributor towards the security of supply.
84. There are references to a Staffordshire County Council policy document relating to separation distances from residential properties and a House of Lords Private Member's Bill also concerned with separation distances. Staffordshire County Council is not the planning authority for RE development and cannot make or enforce planning policy in this regard. The House of Lords Bill is not sponsored by the Government and no debate has been scheduled. Furthermore, paragraph 008 of the Planning Practice Guidance on Renewable and low carbon energy discourages the adoption of buffer zones or separation distances other than for safety reasons.

Overall conclusions

85. Policies in *The Plan* recognise the presumption in favour of sustainable development and generally support farm diversification initiatives and schemes for the generation of renewable energy. These policies are in line with policies in the NPPF. Paragraph 97 of the NPPF refers to the responsibility on all communities to contribute to energy generation from renewable or low carbon sources. Paragraph 98 says that applicants for energy development are not required to demonstrate the overall need for renewable energy and local planning authorities should recognise that even small-scale projects can provide a valuable contribution to cutting greenhouse gas emissions.
86. It may be inferred from paragraph 38 of the NPPF, that the delivery of the associated infrastructure for renewable and low-carbon energy is central to the three dimensions of sustainable development. Energy development usually has some adverse landscape impact and I consider that it would not be logical to elevate landscape protection generally (as opposed to landscapes of national importance such as National Parks and Areas of Outstanding Natural Beauty) to the extent that it would effectively “trump” the presumption in favour of sustainable development as far as such projects are concerned. That is not to say that anything goes, but it would be necessary to demonstrate that the landscape effects of a proposal would be harmful to the extent that the presumption in favour of sustainable development would be outweighed.
87. In this case, the scheme would have only limited impact on the character of the landscape and would comply with relevant development plan policies in that respect. I regard it as comprising sustainable development attracting the presumption in favour.
88. I consider that the impacts of the scheme are acceptable, subject to relevant conditions. The proposal also has the benefit of contributing to farm diversification, as encouraged in both local and national planning policies. I conclude that there are no material considerations sufficient to outweigh the benefits of the scheme or its compliance with development plan policies relating to RE development, farm diversification and the presumption in favour of sustainable development.

Conditions

89. The Council has suggested a number of conditions in the event that the appeal is allowed. Other than the standard time limit condition and a condition requiring compliance with the approved plans, conditions are needed to ensure that the turbines are of an appropriate finish to minimise their visual impact; that noise from the turbines measured at any nearby residential property does not exceed 5dB(A) above background noise level; that construction takes place outside the bird nesting season; that mitigation measures for Great Crested Newts are carried out in accordance with the submitted Extended Phase 1 Habitat Study. The suggested condition requiring the turbines to be of a particular type is unnecessary given the requirement to comply with the submitted details. A condition is needed to ensure that the turbines are removed when they cease to be used for generating electricity. However, a further condition limiting the duration of the permission to 25 years is required to reflect the expectation that the turbines would be decommissioned and removed at the end of that period. A further condition is required to ensure that the MOD is informed of the date of

commencement of the development, the position of the turbines and the height of construction equipment.

Recommendation

90. I recommend that the Secretary of State allows the appeal subject to the conditions set out in Annex A below.

David C Pinner

Inspector

Annex A

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following listed approved plans:
 - i) Drawing no. M5276-01, 1:2500 site location plan dated 21.08.13;
 - ii) Drawing no. M5276-03, 1:500 site plan dated 21.08.13;
 - iii) Drawing no. 250-00-30-300, WTN/250/30 Tubular tower 30m visualisation drawing dated 26.03.13; and
 - iv) Drawing no. 250-00-30-300, WTN/250/30 Tubular tower 30m elevation drawing dated 26.03.13.
- 3) The permission hereby granted shall enure for a period of 25 years. At the end of that period, the wind turbines shall be decommissioned and removed from the site in accordance with a scheme of decommissioning and restoration of the land, including a timetable for carrying out the works, which shall have been submitted to and approved in writing by the Local Planning Authority prior to the turbines being brought into use.
- 4) The tower, nacelle and rotor blades of each turbine shall have a painted matt grey (RAL 7035) colour finish.
- 5) The background noise imissions generated by the turbines shall not exceed 5dB(A) above the background noise at any dwelling that lawfully exists at the date of this permission.
- 6) The construction works to install the wind turbines shall only be carried out between September and February.
- 7) The Great Crested Newt mitigation measures as set out in section 6.4 of the Extended Phase 1 Habitat Survey dated July 2013 produced by Landscape Science Consultancy Limited shall be adhered to at all times during the period of construction works to install the wind turbines.
- 8) If within the 25 year duration of this permission, either or both turbines permanently cease to be used for the generation of electricity, then within 6 months of the cessation of generation of electricity the respective turbine(s) and associated works and equipment shall be removed and the land shall be reinstated as grassland suitable for agricultural production.
- 9) Prior to commencement of development, the developer shall notify the Local Planning Authority, for the purposes of informing the Ministry of Defence, of the date for commencement of construction works, the height of any construction equipment and the precise longitude and latitude of each of the turbines.



Department for Communities and Local Government

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS;

The decision may be challenged by making an application to the High Court under Section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act

Decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged under this section. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application under this section must be made within six weeks from the date of the decision.

SECTION 2: AWARDS OF COSTS

There is no statutory provision for challenging the decision on an application for an award of costs. The procedure is to make an application for Judicial Review.

SECTION 3: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the report of the Inspector's report of the inquiry or hearing within 6 weeks of the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.