



Appeal Decision

Hearing held on 22 February 2011

Site visit made on 22 February 2011

by Andrew Pykett BSc(Hons) PhD MRTPI

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

Decision date: 16 March 2011

Appeal Ref: APP/X2410/A/10/2134009

Land adjacent to Wanlip Sewage Treatment Works, Wanlip, Leicestershire

- 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 Severn Trent Water Limited against the decision of Charnwood Borough Council.
 - The application Ref: P/09/2402/2, dated 11 December 2009, was refused by notice dated 30 April 2010.
 - The development proposed is the erection of a single wind turbine plus underground cabling, access track, control building, temporary site compound and ancillary building.
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Preliminaries

1. The application for planning permission was accompanied by a set of plans, an Environmental Statement (December 2009)¹, a Design & Access Statement, and a Planning Statement. Additional Information, including further visualisations, was submitted in August 2010. During the processing of the appeal the Secretary of State determined that the proposal did not fall within the terms of the 1999 Regulations, and the preparation and submission of an Environmental Statement had not therefore been necessary. However, it was also recorded that the environmental information supplied by the appellant would still be taken into account a material consideration in the determination of the appeal. I have also taken account of the Additional Information, the Design & Access Statement, and the Planning Statement.
2. The environmental information also included a complete set of plans of the proposed development. The scheme essentially comprises the following plans and drawings:

Reference	Title	Revision
Figure 1.1	Site Plan	PO
Figure 1.2	Site Location Plan	
Figure 1.3	Overview of Proposed On Site Layout and Turbine Construction Area	P2
Figure 1.4	Proposed Culvert Crossing	P2

¹ The Statement comprises: Vol 1 – Non-Technical Summary; Vol 2 – Environmental Statement; Vol 3 – Figures and Visualisations; and Vol 4 – Technical Appendices.

Figure 1.5	Site Entrance Works and Reinstatement Adjacent to Sewage Treatment Works Entrance	P3
Figure 1.6	Site Entrance Works and Reinstatement – Approach from A46	
Figure 4.1	Typical Turbine	
Figure 4.2	Typical Access Track Detail – Widening of Existing Access Track	
Figure 4.3	Typical New Stone Track Section	PO
Figure 4.4	Typical Turbine Foundation	P1
Figure 4.5	Typical Substation Design	P1
Figure 4.6	Typical Cable Trench	P1

Figures 4.1 to 4.6 are described as 'typical' drawings in order to take account of minor design differences between turbines and other components. In the event of the appeal succeeding the scheme would be the subject of competitive tendering procedures, and a condition would therefore be necessary for the final plans to be submitted to and approved by the council. Although not mentioned on the application form, the submitted documents also record that permission is sought for a temporary period of 25 years. I have taken this into account.

- Following the refusal of the application by the council in April 2010, the Secretary of State revoked the regional strategies (RS) in July. His action was challenged in the High Court and, following the judgement of the Court in November, the *East Midlands Regional Plan* is now part of the development plan and is material to this case. The Secretary of State has since made it clear that it is the Government's intention to revoke the regional strategies, and the provisions of the Localism Bill now before Parliament reflects this intention. Whilst this intention has been taken into account in the determination of this case, I have afforded it little weight at this stage of the parliamentary process. At the time of the hearing therefore the planning policy context of the case was similar to that which had existed when the council determined the application.

Decision

- I allow the appeal, and grant planning permission for the erection of a single wind turbine plus underground cabling, access track, control building, temporary site compound and ancillary building at land adjacent to Wanlip Sewage Treatment Works, Wanlip, Leicestershire in accordance with the terms of the application, Ref: P/09/2402/2, dated 11 December 2009, subject to the conditions included in the schedule at the end of this decision.

Main Issue

- The main issue in this case is whether any harm resulting from the impact of the proposal on landscape and visual amenity, heritage assets, and/or residential amenity would be sufficient to outweigh the benefit of the proposed development.

Reasons

6. The development plan in this case comprises the *East Midlands Regional Plan*, adopted in 2009, and to which I have referred above, and the *Borough of Charnwood Local Plan 1991-2006*, adopted in 2004. There is also a substantial body of national policy which is material to the determination of the appeal. In its most comprehensive and relevant form this is expressed in Planning Policy Statement (PPS) 22: *Renewable Energy* and its Companion Guide *Planning for Renewable Energy*, both published in 2004. Amongst other matters, PPS22 records that renewable energy developments should be capable of being accommodated throughout England in locations where the technology is viable and environmental, economic, and social impacts can be addressed satisfactorily. At both the regional and local levels plans should contain policies designed to promote and encourage, rather than restrict, the development of renewable energy resources. The statement also recognises that, of all the renewable technologies, wind turbines are likely to have the greatest visual and landscape effects. These effects will vary on a case by case basis, and although proposed developments should be addressed using objective descriptive material and analysis, it is recognised that the final decision in respect of these effects will be, to some extent, one made by professional judgement.
7. Although I gather the local plan did include policies which were directly relevant to the proposed development, these expired in 2007 on the grounds that they both duplicated and were contrary to national policy included in PPS22. The most directly relevant development plan policy is therefore RS Policy 40 (Regional Priorities for Low Carbon Energy Generation). This both establishes an indicative target for the achievement of renewable energy generation as set out in Appendix 5, and lists six criteria to apply to the consideration of onshore wind energy schemes. The target for onshore wind generation in 2010 was 122MW, with 175MW by 2020. The criteria are: landscape and visual impact; the effect on the natural and cultural environment, including historic assets and their settings; noise intrusion; cumulative effects, including intervisibility; the potential contribution to the targets; and the potential contribution to environmental objectives on environmental change.
8. Notwithstanding the expiry of the local plan policies to which I have referred above, the plan continues to include a range of strategic and protective policies to both promote sustainable forms of development, and protect the countryside from unnecessary or otherwise unacceptable development. Amongst many other matters, Policy ST/1 (Overall Strategy for Charnwood) seeks to protect both the character and appearance of the countryside for its own sake, and those features of the historic and built environment which are particularly valued by the community. Policy CT/1 (General Principles for Areas of Countryside, Green Wedge and Local Separation) records that in locations outside development limits, new development will be strictly controlled. It is generally restrictive, but it does recognise that some strategically important utility schemes may have to be sited in such locations where the development could not reasonable be located within or adjacent to an existing settlement. Even then, the purpose of Policy CT/2 (Development in the Countryside) is to ensure that the character and appearance of the countryside is safeguarded. Policy EV/1 (Design) is also concerned to promote high standards of design in new development. Amongst other matters it seeks to safeguard the amenities of adjoining properties. In the context of the current proposal three additional policies of the RS essentially reiterate the protective stance of the local plan.

These are: Policy 26 (Protecting and Enhancing the Region's Natural and Cultural Heritage); Policy 27 (Regional Priorities for the Historic Environment); and Policy 31 (Priorities for the Management and Enhancement of the Region's Landscape).

9. At the time of its determination by the council at the application stage the relevant development plan policies were as recorded above. Although at the time of the appeal it was thought that the regional component of the plan had been revoked, by the time of the hearing it was recognised that the RS had once again become part of the plan. Notwithstanding the passage of time and events, the policy context of the proposal therefore remains relatively constant. Although the RS includes the most directly relevant policy, and it is of more recent origin than the local plan, both parts of the plan effectively raise similar matters. The parties to the hearing agreed that progress with the Local Development Framework rendered it irrelevant to the determination of the appeal.

Landscape and Visual Amenity

10. The appeal site lies in an open arable field immediately to the north-west of the Wanlip Sewage Treatment Works (STW). The works occupy an extensive area between the A46(T) to the south and the A6(T) to the west – both comprising parts of the strategic road network to the north and north-west of Leicester. The land forms part of the western valley side of the River Soar and lies close to its confluence with the River Wreake. To its east, north-east and north therefore the land is flat and characterised by meandering rivers, the Grand Union Canal, and a series of lakes derived in part from sand and gravel extraction. There is a low ridge within the field on which the turbine would be sited at an altitude of just over 55mAOD. Further to the north-west and on the other side of the A6(T) lies the village of Rothley. Open agricultural and park land lies to the west and south-west of the site.
11. In relation to this component of the main issue, both RS Policy 40 and *Planning for Renewable Energy* place considerable store on the need to take account of local landscape character assessments. At the regional level the appeal site is considered to lie within the Soar Valley character area. Amongst other characteristics reference is made to the distinctiveness of the floodplain; the road, canal and power corridor; marina developments and gravel extraction. I saw on my visit that the proximity of the northern edge of Leicester is particularly noteworthy. This includes the Watermead Country Park, which lies between the A46(T) and the A607. Although most of the character area lies outside the city, the urban pressures on this part of the valley are all too evident – most notably the volume of traffic which can be heard if not seen from many locations. At a more localised level a distinction is made between the Watermead Wetlands to the east of the appeal site and the Thurstaston Agricultural Slopes to the west. The site lies virtually on the boundary between the two landscape types. Reference is again made to the impact of the further encroachment of the urban fringe.
12. Paragraph 5.18 of *Planning for Renewable Energy* notes that the landscape impacts and visual impacts of development proposals are generally considered separately. The former refers to the effects of development on the landscape fabric, character and quality and so concerns the degree to which a scheme might become a significant or defining component of the landscape. The latter is concerned with the extent to which a scheme might become a feature of

particular views or sequences of views, and the effect that this would have on observers who experience those views.

13. In its assessment of effects, the appellant concludes that the scheme would give rise to a slight adverse effect on landscape features². As far as the landscape character as a whole is concerned, the appellant refers to the size of the turbine but notes that the existing landscape is neither intimate nor enclosed in scale. I agree that the structure would be relatively clean and simple in terms of its appearance and operation, and that as a large man-made artefact it would not be incompatible with the busy dual carriageways which are so characteristic of the surroundings. I consider it would be less compatible however with the scale of the local rivers and their associated lakes, nor with the canal and its locks, nor with the trees in the landscape. Notwithstanding the other vertical structures to which the appellant refers – pylons, communication masts, chimneys, road signs and gantries – it would be by far the tallest structure in the locality. The appellant predicts an overall moderate effect on landscape character. Other than to qualify this conclusion as a moderate adverse effect, I do not disagree with this assessment. Although to a degree this must be considered harmful, I note there is no suggestion from either party that the change would be sufficient to generate any reclassification of the landscape character type or area.
14. Consideration of the visual effect of the proposed development inevitably covers a larger area, and the appellant has prepared a range of useful photomontages illustrating the appearance of the proposed turbine. The zone of theoretical visibility maps indicate that the turbine would be visible to both hub height (80m) and blade tip height (132m) over a considerable area. As is noted on the maps however, this presumes both clear visibility and it does not take account of any screening by vegetation or buildings. To this extent I believe the maps perhaps create a rather misleading impression. I saw, for example, on my site visit that the visibility of the turbine from the towing path on the northern bank of the River Wreke to the east of Junction Lock would be frequently interrupted or filtered by trees. For a much greater number of potential observers the roadside hedges and trees on the A6(T) would have a similar consequence, and buildings in Rothley, Wanlip and Cossington would have an even greater effect. I recognise, of course, that the greatest effect would be experienced by users of the rights of way closest to the appeal site, but their attraction for countryside recreation is, to a degree, compromised by their proximity to both the sewage treatment works and the A6(T)³.
15. In its assessment of the significance of the effects of the proposed development, the appellant concludes there would be substantial/moderate effects at four viewpoints. Viewpoint 1 (VP1) is at Rothley Town Green, VP3 is at Wanlip, VP4 is at Birstall, and VP11 is at the Town Green Street/North Street junction in Rothley. The visual effects at VP14 (Town Green), VP15 (Hickling Close), VP16 (junction of Loughborough Road, Cossington Lane and Hallfields Lane) and VP17 (Loughborough Road) would be comparable. I do not demur from the appellant's conclusions in relation to any of these viewpoints, but I do note that in two important respects the photomontages are less than candid. Most significantly they do not reproduce the rotation of the blades. Nor do

² In the environmental information prepared by the appellant and responded to by the council, for the main part, both parties have used the neutral, value-free language of the EIA Regulations. A finding of significance does not necessarily equate to the harm referred to in the main issue.

³ In the event of the appeal succeeding, implementation of the scheme would be contingent on the closure or diversion of the public footpath which crosses the site. This would be subject to a separate procedure.

they illustrate the variations in effects which can result from different meteorological conditions. The combined effect of dark clouds and low sunlight for example can materially accentuate the presence of such large structures.

16. In its statement the council observes that for topographical reasons the STW is largely hidden from view. I agree that, contrary to what might have been expected from its size, the works have not resulted in serious damage to the visual amenity of the local landscape. By way of contrast, the turbine would be visible from many different locations. My attention has been drawn in particular to the A46(T)/A6(T) junction to the south-west of the appeal site. I acknowledge that this junction would provide a good middle-distance vantage point of the proposed development, but I do not consider the prospect of a single turbine – albeit a particularly large one – would result in serious harm to such an extensive panorama. By far the majority of those observing the turbine would be those travelling on the major roads to which I have referred. Notwithstanding the qualities of the Soar Valley however, the landscape is one of modest attraction and I believe the consequential harm resulting from the visual impact of the turbine would be limited.
17. I conclude in relation to this component of the main issue that there would be some conflict with the content and purpose of paragraph (vi) of local plan Policy ST/1. However, I disagree with the council concerning Policy CT/2. The second limb of the policy simply records that development in areas of open countryside will be strictly controlled. It does not amount to an embargo, and although the third limb of the policy is concerned with the re-use, adaptation or construction buildings, I believe that as a potential generator of electricity on a commercial scale, the turbine could be legitimately described as a utility. In this sense it would be comparable with the transport infrastructure cited in paragraph (iv). Furthermore, it would be very difficult to find a potential site within an existing settlement. Considered in the round, I do not believe the appeal proposal conflicts with the purpose of Policy CT/1. Neither local plan Policy CT/2 nor RS Policy 27 gives rise to any issues above or beyond those raised by paragraph (vi) of Policy ST/1.

Heritage Assets

18. As I have recorded above, the village of Rothley lies to the north-west of the appeal site. Two parts of the southern area of the village were designated as conservation area in 1972 – centred on Cross Green and the parish church to the east, and on Town Green to the west. This was extended in 1997 to include the area between and the open land to the south and east of the built-up area, up to and including Rothley Brook. I understand the enlargement of the area was undertaken because of the importance attached to the landscape setting of the village alongside the Rothley Brook. This is confirmed in the character appraisal adopted by the council in 2008. The special interest of the Area is recorded as including the location beside the Brook; views of the church and its tower; and the open aspect and silhouette of the village when seen from the south. I saw on my visit that the meadows make a significant contribution to the setting and appearance of the village. The appraisal notes that they create opportunities for views of the village from outside, and for vistas across the valley from within⁴.
19. Policies HE8, HE9 and HE10 of PPS5: *Planning for the Historic Environment* all refer to the significance of the setting of heritage assets in relation to the

⁴ See pages 33 and 31, Rothley Conservation Area Character Appraisal

management of development. Policies 26, 27 and 40 of the RS adopt a similarly protective stance. In this case however the history of the conservation area enlargement and the contents of the appraisal indicate that account has already been taken of the extent of the southern setting of the conservation area by its inclusion within the boundary. I believe the most attractive prospects of the village which include this setting of the conservation area are those obtained to the north-east from the bridleway and bridge just beyond Town Green, and from the western end of Hallfields Lane looking north and north-east. I can understand the rationale for the enlargement of the conservation area on the basis of these prospects.

20. Although I consider the circumstances of the enlargement of the conservation area reduces the weight which can be attached to the council's case in relation to the impact of the scheme on its setting, the proposed turbine would nevertheless still be visible from a number of locations within the Area. It would comprise a component of vistas of which both it and the conservation area would be contributory parts. These are best illustrated in VPs1, 12 and 14 – in the vicinity of Town Green, from VP11 – at the Town Green Street/North Street junction, and in VP13 – from Cross Green. With the exception of that from VP12, all the photomontages include parts of the conservation area, and, notwithstanding the observations I have made above, the turbine would have some effect on the wider setting of the Area. It is self-evidently the case that a smaller turbine would be less visible, but I agree with the appellant that any modern commercial scale turbine would be visible. Although the rotation of the blades would enhance its visibility and render its impact greater, in each case only a proportion of the whole structure would be visible. As a result of its distance from the observer, the vertical extent of the turbine would be surpassed by vegetation or buildings, and, as a single turbine, the horizontal impact of the scheme would be confined to one location. I have concluded the proposal would not harm either the conservation area or its setting.
21. There are a number of listed buildings in the village including Grade II domestic dwellings in Town Green Street, and the parish church which is Grade II*. The townscape focus of the dwellings in Town Green Street (including that shown on the council's Photo 5) is Town Green itself, and I do not consider the turbine would harm or diminish the appreciation of their settings. The character appraisal refers to the views of the cottages on either side of Town Green as being a key view, and I note the photograph on page 13 is oriented to the south-west. In my opinion the key view cited is valuable in both directions, but I do not believe the turbine would have as significant an effect as the council fears.
22. I am rather more concerned about the impact of the structure on the parish church. Although the scheme would have no impact on the key view mentioned in the council's character appraisal, the blades of the turbine would be visible from VP13. This is perhaps rather indistinctly illustrated in the photomontage against a background of white clouds and with leaves on the trees. It is evident however that from a little further to the north, the blades, or parts of the blades, would appear directly, or almost directly, behind and above the church tower. In view of its size and status as a Grade II* building which doubtless contributes much to the life of the local community, I consider this would amount to a harmful effect on its setting and appearance.
23. I acknowledge that the impact of the proposed development would not be as great than might otherwise have been the case as a result of the presence of

the buildings which front onto Cross Green, and I recognise that effect would be diminished when the trees are in leaf. Indeed, only a small proportion of the top of the church tower is visible above the roof tops, and the negative effect would be confined to a very limited location. I have taken this into account in assessing the weight to be attached to the harm. Nevertheless, I have concluded that the proposal would therefore conflict to a degree with paragraph (ii) of local plan Policy ST/1 and the relevant parts of RS Policies 26, 27 and 40. In contrast, I am aware that Policy HE1.3 of PPS5 requires that where conflict between climate change objectives and the conservation of heritage assets is unavoidable, the public benefit of mitigating the effects of climate change should be weighed against any harm to the significance of the assets.

Residential Amenity

24. Many of those who have made written representations or who attended the hearing are concerned about the impact of the scheme on residential amenity. In its refusal reasons the council has identified a number of specific locations where it is considered the effect would be unacceptably severe. These are dwellings in Cossington Lane, Hickling Close, and The Rise, and new properties off both Cossington Lane and Loughborough Road. The latter development is currently in course of construction, with a number of the dwellings off the service road off Loughborough being recently occupied. At the request of residents I visited two dwellings at 9 Cossington Lane and Woodcock Farm. I also visited Willows Farm to the south-east of the appeal site, although I understand this does not now provide any residential accommodation. I have also taken account of the appellant's comprehensive residential amenity study of individual or groups of dwellings within 2kms of the site.
25. The closest dwellings to the appeal site are the new houses off Loughborough Road. According to the appellant's survey the closest would be 609m from the turbine. The distance between the dwelling at Woodcock Farm and the turbine would be 624m. The vertical field of view occupied by the turbine in both cases would be 12.33° and 11.77° respectively. The horizontal field of view occupied by the turbine in each case would be less than 1°. The predicted significance of visual effect at these locations is judged to be substantial in the first case and slight in the second – the difference being essentially derived from the existence of substantial outbuildings in the latter case. I do not disagree with these assessments, but I also recognise the distinction between the significance of a visual effect on one hand, and an unacceptably harmful effect on living conditions on the other. I fear much of the council's assessment under this heading is based on the former rather than the latter.
26. The outlook from a dwelling could potentially be rendered unacceptably damaged by proximity to a turbine if this resulted in its being oppressive or overbearing, but even for the Loughborough Road houses I do not consider this would be the case. I do not dispute the presence of the turbine would be *the* predominant component of the scene to the south-east, but I do not believe it would amount to a serious threat to the potential of residents, or future residents, to either enjoy or significantly diminish the benefit of the dwellings concerned. I have taken account in this regard of the presence of considerable volumes of traffic on the A6(T) – a characteristic which itself has some adverse impact on residential amenity in this part of Rothley.

27. The existing and proposed dwellings in Cossington Lane, Hickling Close and The Rise are a little further from the appeal site, although they are closer to the A6(T). I visited one of the closest dwellings. It would be about 730m from the turbine. Both it, and I understand its neighbours, have their living rooms on their south sides, and the residential survey assesses the significance of the visual effect as potentially substantial. As with the other locations however I do not consider the proximity of the dwellings to the proposed turbine would be sufficient to render the properties unreasonably unattractive or unacceptable in terms of their living conditions. As with the Loughborough Road houses, the turbine would certainly constitute a substantial addition to the southerly prospect from a number of houses and their gardens, but I do not consider living conditions at the properties would be seriously compromised.
28. Local plan Policy EV/1 is positively expressed and it is essentially concerned with the design standards of new development which is otherwise acceptable. As far as paragraph (vii) is concerned, the safeguarding of privacy and light is not relevant, and, although the scheme would have some effect on visual amenity from a number of dwellings, I do not believe either their residential amenity or their living conditions would be seriously undermined. I conclude that the effect of the project would be insufficient to amount to a breach of Policy EV/1.

Other Matters

29. A number of those who made written representations or who contributed to the hearing were critical of the scheme in relation to various matters which were not pursued by the council. Concern was expressed about the possible impact of noise generated by the turbine. Paragraph 22 of PPS22 records that the renewable technologies may generate small increases in noise levels. As far as wind energy is concerned it advises that the 1997 report of the Energy Technology Support Unit (ETSU) for the former Department of Trade and Industry should be used to assess and rate noise⁵.
30. The report describes a framework for the measurement of wind farm noise and gives indicative noise levels thought to offer a reasonable degree of protection to wind farm neighbours, without placing unreasonable restrictions on wind farm development or adding unduly to the costs and administrative burdens on wind farm developers or local authorities. Other than in very isolated locations, the indicative noise levels it adopts are essentially set relative to the existing background noise at the nearest noise-sensitive properties, with different limits applying during day-time and night-time. In low noise environments absolute levels of 35-40dB(A) and 43dB(A) are set for day and night-time periods.
31. It is not the intention or purpose of the report to seek to ensure that turbines are inaudible at noise-sensitive properties. Its purpose is to ensure that turbine noise is restricted to the relevant limits. The appellant has carried out a full assessment of the existing and potential noise environment in the vicinity of the appeal site, and I have no reason to doubt the reliability of this work. The noise assessment indicates that the limits could be comfortably met, but the appellant has indicated that in any event no objection would be raised to an appropriately worded condition or conditions the purpose of which would be to ensure compliance.

⁵ *The Assessment and Rating of Noise from Wind Farms*

32. Paragraph 60 of the Technical Annex on wind in *Planning for Renewable Energy* records that experience indicates bird species and their habitats are rarely affected by wind turbine development. Although different species vary in their behaviour, most birds in flight can be expected to take avoiding action. A comprehensive ornithological assessment was carried out by consultants on behalf of the appellant. It concluded in relation to most species on or near the site that the effect of the development would be neutral. The species considered comprised Golden Plover, Common Tern, Kingfisher, European White-fronted Goose, Common Hobby and Green Sandpiper. It was considered there would be a minor negative effect on Lapwing. The significance of this effect (and that on other species) could be monitored by an appropriately worded condition.
33. A significant number of dwellings in the south-eastern quadrant of Rothley would be potentially affected by shadow flicker. This would occur when the sky is clear, the wind is blowing, and the sun is relatively low in the sky to the south-east of the turbine. According to the appellant's prediction, which I again have no reason to question, the maximum theoretical occurrence amounts to 52.2 hours per year at Woodcock Farm. In the event of the phenomenon becoming a nuisance its effect can be mitigated through the imposition and implementation of an appropriately worded condition. The turbine would of course also cast a shadow when stationary. But as is noted in paragraph 75 of the Technical Annex on wind in *Planning for Renewable Energy*, the shadow cast by blades become progressively weaker as they become narrower in section. Only a very weak effect would be experienced at distance from the turbine.
34. In its refusal reasons the council raised the possibility of an unacceptable cumulative effect in relation to a proposed 4 turbine commercial windfarm at Queniborough to the east of Wanlip. The two sites are just over 5kms apart, but I understand the Queniborough proposal has now been refused permission. Neither party considered the cumulative effects of the two schemes would be such that these might be considered to form a component part of the main issue. Although there were some differences between the parties in relation to the significance of effects, the council considered that any additional harm would be of a minor nature. I do not disagree with this assessment, but in the circumstances I consider that it has little bearing on the outcome of the case. In addition, although the applicant at Queniborough may appeal against the decision, it is evident in relation to cumulative effects that more weight should be attached to operative or permitted schemes than to proposals which may proceed no further.

Benefits

35. Paragraphs 2 to 5 of PPS22 refer to the need for regional targets for renewable energy capacity, together with a requirement for their review and upwards revision. As I have recorded above, the target is included in Policy 40 and Appendix 5 of the RS. I understand the East Midlands Regional Plan Monitoring Report recorded that in the summer of 2009 the total installed capacity for onshore wind amounted to 105.4MW. The target for 2010 (122MW) was therefore not achieved, and although the capacity of the proposed development would be modest (at 3.4MW), small-scale projects can provide a limited but valuable contribution to meeting energy needs both locally and nationally. The contribution which the project would make to lowering CO₂ emissions would also contribute to the objectives included in the Supplement to PPS1: *Planning*

and Climate Change. Notwithstanding the outlook for regional policy included in the Localism Bill currently before Parliament, the targets and their purpose remain important parts of the development plan to which I attach significant weight in resolving the balance I have identified in the main issue.

Conditions

36. I have already referred to circumstances where conditions would be necessary, but at the hearing the council and the appellant agreed a comprehensive schedule of conditions which they considered would be both necessary and reasonable in the event of the appeal succeeding. Subject to the matters to which I refer below, I agree with the principal parties. The conditions would be necessary in the interests of the proper planning of the area, local amenity, highway safety, archaeology and ecology.
37. A condition would also be necessary which refers to the application plans and the need for the development to comply with their contents.
38. The council has recommended a condition requiring the installation of air navigation illumination if this is considered necessary. However, lights are only required on structures which would be over 150m in height, and the air safeguarding authorities were consulted by the appellant at the application stage. No such requirement was made and I thus consider such a condition would be unnecessary.
39. The parties agreed that, in the event of the development proceeding, the site should be subject to ornithological and ecological monitoring. I understand the council is concerned that both conditions should specify that monitoring would occur for a three year period after the turbine becomes operational. Draft condition 20 effectively includes such a requirement by reference to the first three winter periods.
40. The council has recommended a precautionary condition which would permit an appropriate response in the event of the turbine generating amplitude modulation. This phenomenon is considered in the ETSU report to which I have referred above, where it is also described as 'blade swish'. The noise levels recommended in the report take account of the character of blade swish noise⁶. In the circumstances I see no need for an additional precaution.
41. I have altered a number of the draft condition in the interests of precision, and in all relevant cases where subsequent agreements are required these can only be made with the local planning authority.

Overall conclusion

42. Proposals for the erection of commercial wind turbines invariably give rise to more than local issues. They can prove to be difficult to determine where the benefits have a national or international expression but the costs are localised. In this case the circumstances are complicated by the prospect of the revocation of the RSs. In that event, the most directly relevant development plan policies would have been removed from both levels of the development plan in a relatively short period. Be that as it may, at present the RS remains part of the plan and I have been able to lend it significant weight in this appeal.

⁶ See page 68, ETSU-R-97

43. As with PPS22, RS Policy 40 encapsulates the dilemma raised by the impetus towards the development of a distributed energy network using low carbon and renewable resources. For it simultaneously requires that particular consideration is given to the landscape and visual impact of schemes, the effect of schemes on historic assets and their settings, and the contribution which wind energy projects can make to both regional renewables targets and the environmental objectives on climate change. Much therefore hinges on the weight to be attached to the various competing pressures.
44. In this case I have concluded that the scheme would result in some conflict with paragraphs (ii) and (vi) of local plan Policy ST/1 and with the relevant parts of RS Policies 26 and 27. However, for the reasons I have given I do not consider these conclusions to be determinative. Nor do I believe the living conditions of existing or prospective local residents would be seriously undermined. I have noted the benefits which would accrue from the proposed development. Paragraph 1(iv) of PPS22 records that the environmental benefits of renewable energy projects should be given significant weight in the determination of such proposals, and I have concluded in this case that, on balance, the benefits of the scheme are sufficient to outweigh the harm. It follows that I consider the appeal proposal complies with the essential purpose of RS Policy 40.
45. It is for the reasons given above that I have concluded the appeal should be allowed.

Andrew Pykett

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Ms Mary Maitland	McGrigors LLP, Princes Exchange, 1 Earl Grey Street, Edinburgh EH3 9AQ
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FOR THE LOCAL PLANNING AUTHORITY:

Mr Neil Thompson	Charnwood Borough Council
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INTERESTED PERSONS:

Mr Michael Winterton
Mr David Keates
Cllr Mrs Diane Wise
Mr Harold Wise
Mr Philip Heather
Mr Percy Hartshorn
Mr Nick Barber

DOCUMENTS SUBMITTED DURING THE HEARING:

Submitted by the council:

- 1 Council's notice of hearing and circulation list
- 2 Local plan Policy EV/1
- 3 11 photographs
- 4 Document PA2 – details of P/08/2527/2
- 5 Document PA3 – details of P/08/2564/2
- 6 Document PA6 – extract from SNH guidance 2005
- 7 Document PA8 – extracts from Regional Renewables Update 2010
- 8 Document PA9 – letter to applicants dated April 2010

Submitted by the appellant:

- 9 RS Appendix 5 – Renewable Energy Targets
- 10 Appeal decision dated 18 May 2006 APP/Q3305/A/05/1181087
- 11 Report to the Secretary of State dated 29 August 2008 APP/E2001/A/07/2050015

Schedule of conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision. Written confirmation of the First Export Date of electricity to the grid from the wind turbine hereby permitted shall be provided to the local planning authority within one month of the date of this taking place.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Figures 1.1, 1.2, 1.3, 1.4, 1.5, 1.6, 4.1, 4.2, 4.3, 4.4, 4.5, and 4.6.
- 3) The permission hereby granted is for a period of 25 years after the First Export Date of electricity to the grid from the wind turbine hereby permitted, after which the use shall cease and the turbine, DNO cabinet, crane erection and lay down areas shall be removed from the site in accordance with condition 18.
- 4) The development hereby permitted shall not commence until full details of the colour and finish of the turbine and the DNO cabinet have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 5) Not less than one year before the expiry of this permission a Decommissioning Method Statement shall be submitted for the written approval of the local planning authority. This shall include details of all site decommissioning works, including how the turbine and ancillary equipment shall be dismantled and removed from the site, the depth to which the turbine foundations shall be removed below ground level, along with details of site restoration and a timetable of works. The Decommissioning Method Statement shall be implemented as approved.
- 6) The turbine, DNO cabinet and its site track shall be provided in the position indicated in Figure 1.3 revision P2, subject to a micro-siting allowance of 20m. Final details of the exact positioning of these items shall be submitted to the local planning authority in the form of revised layout plans. Any variation of the indicated position on Figure 1.3 within the micro-siting allowance shall only be permitted following prior written approval of the local planning authority. The items shall then be sited at the agreed locations.
- 7) Prior to the First Export Date, a scheme for the investigation and alleviation of electro-magnetic interference, including to television reception, caused by the turbine hereby permitted, shall be submitted to and approved in writing by the local planning authority. The approved mitigation measures shall be implemented in accordance with a timescale approved in writing by the local planning authority.
- 8) In the event of a complaint being received, a scheme setting out a protocol for the investigation and alleviation of shadow flicker caused by the turbine hereby permitted shall be submitted to and approved in writing by the local planning authority. The approved mitigation measures shall be implemented in accordance with a timescale approved in writing by the local planning authority and retained for the duration of the permission.

- 9) Prior to the commencement of any works, a Construction Method Statement shall be submitted to and approved in writing by the local planning authority. This shall include details relating to:
- (i) The control of noise and vibration emissions from construction activities including groundwork and the formation of infrastructure, along with arrangements to monitor noise emissions from the development site during the construction phase;
 - (ii) The control of dust including arrangements to monitor dust emissions from the development site during the construction phase;
 - (iii) Measures for controlling pollution/sedimentation and responding to any spillages/incidents during the construction phase;
 - (iv) Measures to control mud deposition offsite from vehicles leaving the site;
 - (v) The location and size of temporary parking;
 - (vi) The control of surface water drainage from parking and hard-standing areas including the design and construction of oil interceptors (including during the operational phase);
 - (vii) The use of impervious bases and impervious bund walls for the storage of oils, fuels or chemicals on-site; and
 - (viii) The means by which users of public rights of way would be protected during the construction period.

Development shall be carried out in compliance with the approved Construction Method Statement.

- 10) All construction and decommissioning works shall be carried out only between the hours of 0730 to 1800 Monday to Friday, 0800 to 1600 Saturdays and at no times on Sundays and recognised Public Holidays. Notwithstanding the hours stated above, the local planning authority may approve in writing deliveries outside these hours on prior application from the developer.
- 11) No development shall take place within the site until a programme of archaeological work has been implemented in accordance with a written scheme of investigation approved by the local planning authority.
- 12) Before the development commences, details of the routing of construction traffic shall be submitted to and approved by the local planning authority. During the period of construction, all traffic to and from the site shall use the agreed route at all times.
- 13) Prior to the delivery of abnormal loads (e.g. turbine blades, tower sections, nacelles, foundation sections and nose), the developer shall

- submit a Traffic Management Plan for the approval in writing of the local planning authority. The plan shall be implemented as approved.
- 14) The works required to ensure that the turbine parts can be delivered on site as shown on drawing numbers 1.5 and 1.6, shall be completed in accordance with details to be agreed by the local planning authority prior to commencement of the construction of the turbine bases. The works shall be completed in accordance with the agreed details.
 - 15) Prior to the commencement of development, details of post-construction monitoring of bird and bat strike to be conducted shall be submitted to and approved in writing by the local planning authority. The aforementioned monitoring shall then be carried out in accordance with the approved details, and the results shall be submitted to the local planning authority in accordance with an approved timescale.
 - 16) No lighting, symbols, signs or logos or other lettering, other than those required for health and safety or traffic management shall be displayed on any part of the turbine or any other building or structures.
 - 17) All cables within the development site from the turbine to the substation shall be set underground.
 - 18) If the wind turbine hereby permitted ceases to operate for a continuous period of 6 months then, unless otherwise approved in writing by the local planning authority, a scheme for the decommissioning and removal of the wind turbine and any other ancillary equipment shall be submitted to and approved in writing by the local planning authority within 3 months of the end of the 6 month cessation period. The scheme shall include details for the restoration of the site. The scheme shall be implemented and site restoration completed within 12 months of the date of its approval by the local planning authority.
 - 19) Prior to the commencement of development a detailed Ecological and Landscape Management Plan and landscape scheme shall be submitted for the consideration of and approval by the local planning authority. The scheme shall include a programme of implementation providing for:
 - i) The proportional replenishment of hedgerow loss with gapping up existing lengths and new hedgerow planting and full details of tree planting within the site. All existing trees and hedgerows shall be retained and hedgerows maintained at a height no lower than 4m;
 - ii) The creation of a 30m wide species rich strip of grassland directly to the east of the existing hedgerow abutting the A6;
 - iii) The long term management and maintenance regime of the field within which the turbine would be situated to take it out of agricultural use and allow for natural colonisation to help deter species such as Lapwing from utilising the area;

- iv) The creation of 4 hibernacula within the site to help increase the value of the site for reptile species;
- v) Planting schedules, noting the species, sizes, numbers and densities of plants;
- vi) The treatment proposed for all ground surfaces, including hard areas;
- vii) Finished levels or contours;
- viii) Any structures to be erected or constructed as part of the Ecological and Landscape Management Plan and/or landscape scheme; and
- ix) Functional services above and below ground.

The scheme for the management of the field shall be implemented in accordance with the approved details and be kept in that state for the duration of the permission.

- 20) The landscaping scheme shall be fully completed in accordance with the details agreed under the terms of the above condition in the first planting and seeding seasons following the First Export Date or in accordance with a programme previously agreed in writing by the local planning authority. Any trees or plants removed, dying, being severely damaged or becoming seriously diseased within 5 years of planting shall be replaced in the following planting season by trees or plants of a size and species similar to those originally required to be planted.
- 21) Prior to the commencement of development a scheme for the monitoring and reporting of the ornithological activity of Buzzard, Lapwing, Golden Plover, Teal and Wigeon within and around the proposed development site shall be submitted to and agreed by the local planning authority. The scheme shall provide for:
 - (a) A series of Vantage Point surveys during the construction period, comprising 2 x 3 hours of surveys per month, with at least one week between each survey, throughout the duration of the construction period; and,
 - (b) A series of Vantage Point surveys during the first three winter periods in which the turbine is operational, comprising 2 x 3 hours of surveys per month, with at least one week between each survey, between October and March inclusive.

The surveys shall be carried out by suitably qualified ecologists. The aforementioned monitoring shall be carried out in accordance with the approved details and the results shall be submitted to the local planning authority in accordance with an approved timescale.

In the event that the survey results identify that the wind turbine is having a negative impact upon county populations of the above named

species, the mitigation measures implemented as part of the approved Ecological and Landscape Management Plan shall be reviewed and amended where appropriate and submitted to and agreed in writing by the local planning authority. The approved mitigation measures shall then be implemented in accordance with the approved details and be kept in that state for the duration of the permission unless otherwise agreed in writing by the local planning authority. In addition, a scheme for the further monitoring and reporting of the ornithological activity of the above named species shall be submitted to and agreed in writing by the local planning authority.

- 22) Prior to the commencement of development a scheme for monitoring and reporting of bat activity within and around the proposed development site shall be submitted to and agreed in writing by the local planning authority and it shall be completed over a 3-year period following the commencement of turbine operations on the site, as follows:
- (a) 3 no. transect surveys, including at least one dusk & dawn survey within one 24-hour period, shall be completed each year during the bat active season (April to September inclusive) at monthly intervals, using the same methods as during the transect surveys used to inform the ES; and,
 - (b) 3 no. periods of remote monitoring shall be completed, each lasting one week, each year during the bat active season (April to September inclusive) at monthly intervals.

The surveys shall be carried out by suitably qualified ecologists. The aforementioned monitoring shall be carried out in accordance with the approved details and the results shall be submitted to the local planning authority in accordance with an approved timescale.

- 23) Prior to the commencement of development details of the final choice of turbine shall be submitted to the local planning authority. These details shall include:
- i) the exact size of the turbine to the hub, and the blade length, not to exceed the figures described within the application; and
 - ii) the submission of information which demonstrates that the turbine chosen can meet the rating level of noise emissions (including the application of any tonal penalty) as set out in the Tables below.

During night-time hours of 23:00 – 07:00 [noise level in dB $L_{A90, 10mins}$]:

Location (Easting	Measured wind speed (m/s) at 10m height within the site
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& northing grid coordinates	averaged over 10 minute periods									
	3	4	5	6	7	8	9	10	11	12
L _{A90} Decibel Levels										
Woodcock Farm 459057,312513	44	45	45	46	48	49	51	53	53	53
Wanlip Hill Farm 459087,311425	48	48	49	50	51	52	53	55	55	55
Property on Hallfields Lane 458806,312433	45	46	46	47	48	50	51	53	53	53
Cossington Mill 459568,312883	45	46	47	48	49	51	53	56	56	56
Proposed housing development 458955,312374	45	46	46	47	47	48	48	49	49	49

At all other times:

Location (Easting & northing grid coordinates)	Measured wind speed (m/s) at 10m height within the site averaged over 10 minute periods									
	3	4	5	6	7	8	9	10	11	12
L _{A90} Decibel Levels										
Woodcock Farm 459057,312513	54	54	55	55	56	56	57	57	57	57
Wanlip Hill Farm 459087,311425	57	58	59	59	60	61	61	61	61	61
Property on Hallfields Lane 458806,312433	51	52	52	53	54	55	56	56	56	56
Cossington Mill 459568,312883	51	52	53	54	55	56	57	57	57	57
Proposed housing development 458955,312374	51	52	52	53	54	55	56	56	56	56

Note: The geographical coordinates references set out in these Tables are provided for the purposes of identifying the general location of dwellings to which a given set of noise limits applies.

- 24) Within 28 days from the receipt of a written request from the local planning authority following a complaint to it, the wind turbine operator shall, at its own expense, employ an independent consultant approved in writing by the local planning authority to assess the level of noise emissions from the wind turbine at the complainant's property following a procedure to be agreed in writing prior to the commencement of development with the local planning authority. Details of the assessment and its results as to whether a breach of the noise limits in Condition 23 has been established shall be reported to the local planning authority as soon as the assessment is completed.
- 25) Upon notification in writing from the local planning authority of an established breach of the noise limits in Condition 23, the wind turbine operator shall, within 28 days propose a scheme to the local planning authority to mitigate the breach to prevent its future occurrence, including a timetable for its implementation. Following the written

approval of the scheme by the local planning authority it shall be activated forthwith and thereafter retained.

- 26) The development hereby permitted shall not be commenced until such time as a scheme to provide compensatory flood storage within or in the vicinity of the site has been submitted to and approved in writing by the local planning authority. The scheme shall be fully implemented and subsequently maintained in accordance with the timing/phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed in writing by the local planning authority.
- 27) Wind speed, wind direction and power generation data of the turbine shall be continuously logged and provided to the local planning authority at its request. Such data shall be retained for a period of not less than 2 years.