



Department for
Communities and
Local Government

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Our Ref: APP/J0405/A/13/2194726

15 October 2015

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPLICATION BY ISON FORDHAM AND ELGIN
CONSTRUCTION, OPERATION AND DECOMMISSIONING OF A SINGLE 3-
BLADED WIND TURBINE AT ISON FORDHAM & ELGIN, LOWER WALDRIDGE
FARM, OWLSWICK ROAD, FORD, AYLESBURY, BUCKINGHAMSHIRE -
APPLICATION REF: 12/01806/APP**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, S R G Baird BA (Hons) MRTPI, who opened an inquiry on 13 January 2015 into your client's appeal against the decision of 17 January 2013 by Aylesbury Vale District Council to refuse planning permission for the construction, operation and decommissioning of a single 3-bladed wind turbine with a maximum height to the tip of the blade of 101.5m and associated infrastructure, including a new highway access, access tracks, temporary site compound, crane pad and substation at Land at Ison Fordham & Elgin, Lower Waldrige Farm, Owlswick Road, Ford, Aylesbury, Buckinghamshire HP17 8XW, application ref 12/010806/APP.
2. The appeal was recovered for the Secretary of State's determination on 14 October 2013, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because the appeal 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 allowed and planning permission be granted. For the reasons given below, the Secretary of State disagrees with the Inspector's conclusions and recommendation and refuses planning permission. All paragraph numbers, unless otherwise stated, refer to the Inspector's report (IR).

Department for Communities and Local Government
Jean Nowak, Decision Officer
Planning Casework
3rd Floor Fry Building
2 Marsham Street
London SW1P 4DF

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Procedural matters

4. In reaching his decision, the Secretary of State has taken into account the submitted Environmental Statement (ES). Overall the Secretary of State is satisfied that the ES complies with the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 and that sufficient information has been provided for him to assess the environmental impact of the proposal.

Matters arising after the close of the inquiry

5. The Secretary of State has had regard to the correspondence received in response to his letter of 22 June 2015 inviting comments on the Written Ministerial Statement (WMS) of 18 June 2015 referred to in paragraphs 7, 8, 11, 24 and 29 below. The Secretary of State has carefully considered all the representations received in his consideration of the appeal before him and listed at Annex A, but is satisfied that they do not raise matters which would require him to refer back to parties again prior to reaching his decision. Copies of these representations can be made available on 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 saved policies of the Aylesbury Vale District Local Plan (LP) adopted in 2004. As noted by the Inspector at IR 4.26, the LP does not contain policies specific to renewable energy or listed buildings. The Secretary of State agrees with the Inspector that the most relevant policies are those referred to at IR10.80 but, having regard to the Inspector's reasoning at IR10.81-10.82, he gives them reduced weight with the exception of Policy GP8, which he agrees is consistent with the objectives of the Framework. The Secretary of State notes that the Council commenced preparation of The Vale of Aylesbury Plan in 2011, but it was found to be unsound and was withdrawn in February 2014 (IR 4.31).
7. The Secretary of State has had regard to his WMS of 18 June 2015 referred to at paragraph 5 above. 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 circumstances, 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 all

relevant representations received in his consideration of the appeal before him including the correspondence referred to in paragraph 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 WMSs on renewable energy published in June 2013 by the Secretaries of State for Energy and Climate Change and for Communities and Local Government; the WMS on renewable energy published by the Secretary of State for Communities and Local Government in April 2014; and the English Heritage/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 issues

11. Along with his WMS of 18 June 2015 (which had not been issued at the time of the Inspector's report), the Secretary of State agrees with the Inspector that the main issues are those set out at IR10.1.

Landscape and visual impact

12. The Secretary of State agrees that the turbine would not be a significant or defining characteristic of National Character Area 108 (IR10.5).
13. Turning to the Inspector's assessment of the effect of the turbine on local landscape character, particularly the flat vale landscape of the Haddenham and Longwick Vales, the Secretary of State agrees with him that, as a tall, engineered structure with blade tip height of some 101.5m and rotating blades, the turbine would, by definition, have an adverse effect (IR10.6).
14. The Secretary of State has carefully considered the Inspector's assessment of harm to landscape character, including to the Chilterns AONB (IR10.7-10.10). The Secretary of State agrees with the Inspector at IR10.9 that, although the magnitude of impact would be major within about 1km of the appeal site - where the turbine would be a defining characteristic of that landscape - its impact on the landscape would be moderate/minor adverse between about 1km and 3.5km from the appeal site.
15. The Secretary of State notes that there is no dispute between the parties that areas of high landscape sensitivity beyond the 3.5km range, particularly the AONB scarp slope, fall within the high sensitivity category (IR10.9). However,

while he agrees with the Inspector that the magnitude of effect in terms of landscape change beyond about 3km would be low, he nonetheless notes that the landscape impact of the proposed turbine on the AONB would be adverse. Given these considerations, and applying paragraph 115 of the Framework, which requires that great weight should be given to conserving landscape and scenic beauty in an AONB, he disagrees with the Inspector that the landscape impact of the proposed turbine on the AONB would not be significant. The Secretary of State therefore also disagrees with the Inspector's conclusion at IR10.10 that the proposed turbine would not result in material harm to the landscape character of the AONB.

16. In considering the potential adverse visual effect on views to and from the AONB (IR10.11-10.19), the Secretary of State has taken account of the duty to conserve and enhance its natural beauty, having particular regard to the availability of long views from the scarp edge across lower lying vales to the north and west (IR10.12). In terms of views from the AONB, the Secretary of State agrees with the Inspector (IR10.14) that the turbine and the rotating blades would be visible in the long and extensive panoramic views across the Vales, but that these views would only be slightly modified by the presence of the turbine and the harm would be minor. Nonetheless, the Secretary of State applies the provisions of para 115 of the Framework, and considers that this minor harm should be given moderate weight.
17. Turning to the views into the AONB from the Vale, the Secretary of State agrees with the Inspector that the proposed turbine would break the skyline of the scarp slope and that the significance of that impact would vary from major through moderate to minor (IR 10.17). The Secretary of State accepts the Inspector's conclusion that this would result in some minor harm to the AONB, but he disagrees with the Inspector's view that this minor harm would not conflict with the duty to conserve and enhance the natural beauty of the AONB. He considers that this harm, albeit minor, should be afforded moderate weight in the planning balance, together with the minor harm identified at paragraph 15 above.
18. With regard to the impacts on the network of public rights of way (IR10.18-10.19), the Secretary of State agrees with the Inspector that, within 1km of the site, the turbine would dominate views towards it - resulting in some moderate harm, with the level of harm reducing to minor further from the site. The Secretary of State also agrees that the occupants of vehicles travelling eastwards on the A4129 would have views of the turbine, albeit fleeting, and that this would result in some negligible to minor visual harm (IR10.19) to which he accords some weight.

The effect on heritage assets

19. Having given very careful consideration to the Inspector's findings with regard to the effect of the appeal scheme on the settings of heritage assets at IR10.20-10.42, and having taken account of the views of English Heritage/Historic England and its updated guidance on the "Setting of Heritage Assets" referred to at paragraph 9 above, the Secretary of State agrees with the Inspector's conclusion at IR10.85 with regard to heritage assets, namely that the proposal would result in some harm. In relation to Waldridge Manor, the Secretary of State agrees with the Inspector that the turbine would distract attention from the building in terms of its agricultural setting (IR10.25) and result in minor/ moderate

harm (IR10.26). As regards the Aston Sandford Conservation Area, and the other Conservation Areas referred to at IR10.29, the Secretary of State agrees with the Inspector that the harm ranges from slight to moderate.

20. The Secretary of State agrees with the Inspector at IR10.34-10.42, in relation to the other listed buildings, that the harm identified to these listed buildings is less than substantial. In accordance with the statutory obligations identified in paragraph 10 above, the Secretary of State gives considerable importance and, like the Inspector, gives significant weight to the identified harm and the desirability of preserving the setting of the listed buildings, as well as to the desirability of preserving or enhancing the character or appearance of the conservation areas. He agrees with the Inspector (IR10.85) that, in terms of paragraph 134 of the Framework, the overall harm of the scheme would be "less than substantial" on the heritage assets identified at IR10.23-10.42. Applying paragraph 134 of the Framework, this "less than substantial" harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

The effect on living conditions

21. For the reasons given by the Inspector at IR10.43-10.51, the Secretary of State agrees that the proposed development would have an adverse effect on the visual amenities of some residents of the area, particularly those at Aston Mullins and Waldrige Manor. While he agrees that no dwelling in the area around the proposal site would become an inherently unattractive or unpleasant place to live, he gives moderate weight to the adverse impacts on these particular properties.

The effect on equine activities

22. For the reasons given at IR10.53-10.59, the Secretary of State agrees with the Inspector's conclusion at IR10.59 that little weight should be attached to potential impact on equine activities. The Secretary of State also agrees with the Inspector's conclusions at IR10.60 that it would be disproportionate to apply the "precautionary principle" in favour of Aston Mullins.

Output and CO² savings

23. The Secretary of State agrees with the Inspector (IR10.61-10.74) that the proposed turbine would generate a small but credible amount of electricity and have a capacity factor which would be close to the published national average; and that significant weight should be attached to the proposal's contribution to the achievement of the Government's objective of increasing the use and supply of renewable and low carbon energy.

Other considerations

24. In relation to tourism, the Secretary of State agrees with the Inspector that, whilst the turbine would be noticeable, there is no evidence to suggest that it would have an unacceptable adverse effect (IR10.75). He also agrees that there is no evidence that there is a wider public interest that should be protected with regard to property values (IR10.76); and he further agrees that, in terms of the potential impact on local ecology, there is no reason to disagree with the ES and the local planning authority's conclusions (IR10.77).

Written Ministerial Statement of 18 June, 2015

25. Turning to the Inspector's conclusions on Localism (IR10.78), whilst the WMS had not been issued at the time of the Inspector's report, the Secretary of State gives substantial weight to the transitional provisions contained in it as being the most recent statement of Government policy on proposed wind energy development.

Planning Balance

26. Having regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 (see paragraph 6 above), the Secretary of State has concluded that the proposal does not accord with the development plan taken as a whole, in particular owing to the conflict with policies GP.8, GP.35, GP.53 and GP.58; albeit that he accepts that the conflicts with the latter three policies should be afforded reduced weight due to their inconsistency with the objectives of the Framework. The Secretary of State has therefore gone on to consider whether there are any material considerations which might nevertheless justify allowing the appeal.

27. The Secretary of State agrees with the Inspector (IR10.84) that the turbine would make a modest, but valuable, contribution towards national targets for the production of energy from renewable sources and thereby contribute to meeting the objectives of the Climate Change Act, NPS/EN-3 and emerging National Energy Policy; and he gives significant weight to this.

28. In terms of landscape impact, the Secretary of State disagrees with the Inspector's conclusion that the landscape impact of the proposed turbine on the Chilterns AONB (IR10.10) would not be significant, and disagrees with the Inspector's overall conclusion at IR10.85 that the turbine would not result in harm to the AONB (see paragraphs 14-16 above). The Secretary of State considers that the proposed development would conflict with the duty to conserve and enhance the natural beauty of the AONB, and he gives this minor harm moderate weight in the planning balance.

29. The Secretary of State accepts that there would be some moderate and localised harm to the undesignated local landscape and similarly there would be a moderate adverse visual impact resulting in conflict with LP Policy GP.35. The Secretary of State also considers that the proposal would result in harm to heritage assets to which, given the statutory obligations outlined in paragraph 10 above, he gives significant weight. Having regard to the terms of the Framework, he agrees with the Inspector that this harm would amount to less than substantial harm, but which would nevertheless conflict with LP objectives (IR10.82), and which he has weighed in the planning balance. He also attaches moderate weight to the effect on neighbours' living conditions as perceived by the local community, despite the fact that the impact would not result in any property becoming an unacceptable or unattractive place in which to live.

30. Having applied the transitional provisions in the WMS of 18 June 2015 to this case, the Secretary of State is not satisfied that the planning impacts identified by the affected local communities have been addressed. In their responses to the Secretary of State's letter of 22 June 2015, the affected local communities have repeated the concerns which they expressed previously about the planning

impacts of the scheme. These include harm to the landscape, visual amenity and the setting of heritage assets. It is clear from the Inspector's report, in particular at paras. 10.10, 10.17, 10.19 10.48 and 10.51, that many of those planning impacts have not been addressed and the proposal therefore does not have their backing. As such, the proposed scheme would not meet the transitional arrangements set out in the WMS of 18 June 2015; and the Secretary of State gives this non-compliance significant weight.

31. Overall, while the proposed development would make a modest but valuable contribution towards the Government's objectives regarding climate change, to which the Secretary of State gives significant weight, the combined adverse impacts it would impose in terms of the harm to landscape character, to the AONB, to visual amenity and to heritage assets, along with the conflict with the transitional provisions contained in the WMS of 18 June 2015, would significantly and demonstrably outweigh these benefits.

Conditions

32. The Secretary of State has had regard to the schedule of conditions at Annex A to the IR and the Inspector's reasoning at IR10.89-10.91. He agrees that the conditions proposed by the Inspector are 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

33. Accordingly, for the reasons given above, the Secretary of State dismisses your client's appeal and refuses planning permission for the construction, operation and decommissioning of a single 3-bladed wind turbine with a maximum height to the tip of the blade of 101.5m and associated infrastructure, including a new highway access, access tracks, temporary site compound, crane pad and substation at Land at Ison Fordham & Elgin, Lower Waldridge Farm, Owlswick Road, Ford, Aylesbury, Buckinghamshire HP17 8XW, application ref 12/010806/APP.

Right to challenge the decision

34. 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.
35. A copy of this letter has been sent to Aylesbury Vale District Council. A notification letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

Jean Nowak

Authorised by the Secretary of State to sign in that behalf

ANNEX A

Schedule of responses to 'reference back letter' of 22 June 2015

Name of Party	Date of response
Richard Vanbergen	22 June 2015
Cllr Judy Brandis (Member for Haddenham Ward which includes Ford)	23 June 2015
Bruce Raybould	24 June 2015
Keith Gray JP, Clerk to Dinton with Ford & Upton Parish Council	29 June 2015
Jon Horn	29 June 2015
Simon Hope, Chair, Ford Against Turbines Action Group (FAGAT)	29 June 2015
Mark Barlow	29 June 2015
Rt Hon John Bercow MP	30 June 2015
Geoffrey Smith	1 July 2015
Bill Nicholson, Area Planning officer, Aylesbury Vale District Council	1 July 2015
Stephen Gooch	3 July 2015
Michael Trotman	3 July 2015
Adam Cooper	3 July 2015
Simon Hope, Aston Mullins	3 July 2015
Mary Hobden	4 July 2015
Diana Coole	4 July 2015
Sarah Owen	4 July 2015
Lesley M Watkinson	5 July 2015
Colin Bloxham	5 July 2015
Honor Vane	5 July 2015
Richard Moore	5 July 2015
Margaret Hope (Mrs)	6 July 2015

Cllr Brian Foster	6 July 2015
Neil Tidey	6 July 2015
Patricia Horn (Mrs), Ford Village Society	6 July 2015
Victoria Harvey, Co-ordinator, South Beds Friends of the Earth	6 July 2015
David Hardy, Squire Patton Boggs (UK) LLP obo appellant	6 July 2015
Richard Vanbergen	9 July 2015

Schedule of second round responses to 'reference back letter' of 22 June 2015

Name of Party	Date of response
Colin Bloxham	26 July 2015
Victoria Harvey, Co-ordinator, South Beds Friends of the Earth	26 July 2015
Richard Moore	27 July 2015
David Hardy, Squire Patton Boggs (UK) LLP obo appellant	27 July 2015
Richard Vanbergen	28 July 2015

