The Planning Inspectorate

Appeal Decision

Site visits made on 9 and 10 October 2019

by Paul Griffiths BSc(Hons) BArch IHBC

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

Decision date: 3rd February 2020

Appeal Ref: APP/Y2620/W/16/3143028
Selbrigg Farm, Hempstead, NR25 6NF

- 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 Selbrigg Generation Ltd against the decision of North Norfolk District Council.
- The application Ref.PF/14/1669, dated 19 December 2014, was refused by notice dated 23 July 2015.
- The development proposed is the installation of a single wind turbine, with a maximum height to tip of 78m, a new access track, a hardstanding, a small substation building, a temporary meteorological mast, and associated infrastructure.
- This decision supersedes that issued on 2 March 2017. That decision on the appeal was quashed by order of the High Court.

Preliminary Matters

1. I am dealing with this appeal in parallel with another[1] relating to a wind turbine up to 66m high at Pond Farm, Bodham, just over 3km away from the appeal site. Each of these proposals falls to be considered on its own merits, but I have also considered any cumulative impacts, where necessary to do so.

2. Helpfully, the various parties involved in the appeals produced an itinerary for my site visits. I took in most of the key viewpoints and routes identified by the parties on an unaccompanied basis on 9 October 2019[2] before visiting the most important places (including Barningham Hall) on an accompanied basis on 10 October 2019. Once those accompanied visits were completed, I visited some of those places again, on an unaccompanied basis, to reflect further.

Decision

3. The appeal is allowed and planning permission is granted for the installation of a single wind turbine, with a maximum height to tip of 78m, a new access track, a hardstanding, a small substation building, a temporary meteorological mast, and associated infrastructure at Selbrigg Farm, Hempstead NR25 6NF in accordance with the terms of the application, Ref.PF/14/1669, dated 19 December 2014, subject to the conditions set out in Annex A to this decision.

Main Issues

4. Put simply, these are the effect of the proposal(s) on (1) the landscape character and visual amenity of the surrounding area; and (2) the setting, and thereby the significance of a series of designated heritage assets.

[1] APP/Y2620/W/15/3134132
[2] Apart from some close to Barningham Hall that I took to be on private land

5. There are a number of 'other matters' to deal with before considering whether any harmful impacts that would be caused by the proposal(s) are outweighed by any benefits it (or they) might bring forward in the context of the development plan and other material considerations.

Reasons

6. Before embarking on an analysis of the main issues, it is essential, in my view, to set out the policy background against which that analysis must take place. The development plan for the area includes the North Norfolk Core Strategy that was adopted in 2008[3].

7. CS Policy EN1 deals with the Norfolk Coast Area of Outstanding Natural Beauty[4] (and the Broads). It sets out that the impact of individual proposals, and their cumulative effect, on the AONB (and the Broads), and their settings, will be carefully assessed. It continues (of relevance here): development proposals that would be significantly detrimental to the special qualities of the AONB and its setting will not be permitted.

8. CS Policy EN2 is directed towards the protection and enhancement of landscape and settlement character. Proposals should be informed by, and sympathetic to, the distinctive character areas identified in the North Norfolk Landscape Character Assessment[5] and features identified in relevant settlement character studies. The policy requires development proposals to demonstrate that their location, scale, design and materials will protect, conserve and, where possible, enhance (amongst other things): the special qualities and local distinctiveness of the area (including its historical, biodiversity and cultural character); visually sensitive skylines; and the setting of, and views from, conservation areas and historic parks and gardens.

9. The protection and enhancement of the historic environment is addressed in CS Policy EN8. Development proposals should preserve or enhance the character and appearance of designated heritage assets, other important historic buildings, structures, monuments and landscapes, and their settings, through high quality, sensitive design.

10. CS Policy EN7 deals specifically with renewable energy. Proposals will be supported and considered in the context of sustainable development and climate change, taking account of the wide environmental, social and economic benefits of renewable energy gain and their contribution to overcoming energy supply problems in parts of the District.

11. Proposals for renewable energy technology, and associated infrastructure, will be permitted where individually, or cumulatively, there are no significant adverse effects on: the surrounding landscape, townscape and historical features/areas; residential amenity (noise, fumes, odour, shadow flicker, traffic, broadcast interference); and specific highway safety, designated nature conservation or biodiversity considerations.

12. The National Planning Policy Framework of February 2019[6] is an important material consideration, obviously.

[3] Referred to hereafter as CS
[4] Referred to hereafter as AONB
[5] I note that there is now an updated (2018) North Norfolk Landscape Character Assessment which forms part of the evidence base for the emerging North Norfolk Local Plan (2016-2036) – I deal with this below
[6] Referred to hereafter as the Framework

13. In terms of the natural environment, paragraph 170 says that decision-making should contribute to and enhance the natural and local environment by (amongst other things): protecting and enhancing valued landscapes (in a manner commensurate with their statutory status or identified quality in the development plan); and recognising the intrinsic character and beauty of the countryside. Paragraph 172 explains that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads, and AONBs which have the highest status of protection.

14. I should clarify at this point, notwithstanding the various appeal decisions that have been placed before me, that while the AONB is clearly a valued landscape, for the purposes of the Framework, the area where the appeal site is located is not, in my view. As the many representations make clear, it is undeniably popular, but it would require some particular designation or landscape quality that sets it apart to merit dealing with it as 'valued'. It does not have either and on that basis, I see no justification for conferring protection on it that goes beyond the development plan, and the supporting documents that feed into it.

15. As far as the historic environment is concerned, paragraph 193 tells us that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss, or less than substantial harm to its significance. In broad terms, this aligns with the requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990[7] in relation to impacts on listed buildings and their settings, and conservation areas.

16. Contiguous with wider Government commitments, paragraph 148 is clear that the planning system should support the transition to a low carbon future in a changing climate. Amongst other things, it should help to shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience, and support renewable and low carbon energy and associated infrastructure.

17. Paragraph 154 advises that applicants for renewable and low carbon development should not be required to demonstrate the overall need for such development and that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions should be recognised. Moreover, applications (for renewable and/or low carbon development) should be approved if its impacts are (or can be made) acceptable.

18. However, footnote 49 says that a proposed wind energy development involving one or more turbines should not be considered acceptable unless it is in an area identified as suitable for wind energy development in the development plan; and, following consultation, it can be demonstrated that the planning impacts identified by the affected local community have been fully addressed and the proposal has their backing.

Landscape Character and Visual Impact

[7] Referred to hereafter as the Act

19. The site of the proposal lies within an area classified in the 2018 update of the North Norfolk Landscape Character Assessment[8] as Tributary Farmland[9].

20. In summary, this landscape type is said to be characterised by generally open and rolling/undulating rural farmland with some elevated plateau and a rich diversity of minor settlements, woodland and historic estates. The presence of some of the highest land in the District leads to long range, uninterrupted, panoramic views and a prominent skyline.

21. The area classified as Wooded Glacial Ridge, to the north, much of which lies within the AONB, is frequently visible on the horizon and exerts a strong influence on the landscape. This classification relates to a terminal glacial moraine, the Cromer Ridge, that is said to form a dramatic, distinctive and influential landscape feature, characterised by a steep, north-facing wooded scarp slope and a more gently sloping, largely arable southern side. The Wooded Glacial Ridge has a significant influence on the visual character of adjacent landscapes to the north, and south.

22. The valued features and qualities of the area of Tributary Farmland are set out as a strong rural character with a sense of remoteness and tranquillity, historic parklands, historic field patterns, woodland cover, hedgerows and hedgerow trees, remnant semi-natural habitats, rural historic villages and vernacular buildings, rural lanes, and long range views and prominent landscape features. It is said that many of these valued features contribute positively to key qualities of natural beauty of the Norfolk Coast AONB. These include strong and distinctive links between land and sea; diversity and integrity of landscape, seascape, and settlement character; sense of remoteness, tranquillity and wildness; and richness of archaeological heritage and historic environment, particularly that relating to the coast and its character.

23. Amongst the forces for change/detractors set out are renewable energy development and the fact that elevated locations are preferred sites for telecommunications masts and wind turbines. In this expansive landscape, it is suggested that these can result in wide-ranging visual intrusion on the skyline and the erosion of rural character. A similar point is made in relation to the Wooded Glacial Ridge classification.

24. In terms of landscape guidelines for the Tributary Farmland classification, the first relates to conserving the sense of rurality. It is said that this open, tranquil and strongly rural landscape is particularly sensitive to increases in built development, such as, amongst other things, wind turbines. Further, there is a focus on the protection and appropriate management of the rich cultural heritage of the area, including parkland estates, historic villages and churches, in order to retain them as features of the landscape. The guidelines seek to ensure that new development does not compete with church towers for prominence so that they remain key landmark features on the skyline.

25. The Council has also published, in draft, the North Norfolk Landscape Sensitivity Assessment with particular reference to renewable energy and low carbon development[10]. The Tributary Landscape classification outside the AONB is said to have moderate-high sensitivity to medium scale wind turbines[11].

[8] Referred to hereafter as NNLCA 2018
[9] It was part of the same classification in the previous iteration of the NNLCA that CS Policy EN2 refers to
[10] Referred to hereafter as NNLSAre
[11] That is those with a hub height of up to 60m – the proposal would have a hub height below that

26. It is explained that: *although the gently undulating landform, relatively large landscape scale and typically regular landscape pattern of arable fields might reduce sensitivity to medium scale wind turbines in some situations, in this case the open, exposed and strongly rural character, prominent and undeveloped skylines, frequent vernacular settlements, cultural heritage and nature conservation designations, and relatively high scenic quality with long uninterrupted views affording extensive intervisibility throughout this large LCT, all increase sensitivity to the extent that overall, typical sensitivity to this type of turbine is considered to be high*.

27. I have rehearsed the content of the NNLCA 2018 in some detail because while I do not agree with all its conclusions, it offers a mostly reasonable summary of the landscape classifications and the matters that need to be taken into account in assessing the proposals before me against CS Policy EN2. While it is still in draft form, it is more up-to-date than the previous iteration of the NNLCA and forms a better basis for analysis. The accompanying NNLSAre is of some assistance too.

28. My starting point, recognising the intrinsic character and beauty of the countryside, is that as a man-made intervention of significant height, a wind turbine, with a 50m hub height, and blades spinning to a maximum height of 78m, is bound to have something of a harmful impact on the receiving landscape. The question is not whether harm to landscape character and visual amenity would be caused, but the extent of that harm.

29. From what I saw, as highlighted in the NNLSAre, the landform in the vicinity of the site is gently undulating; it has a large scale and is part of a regular field pattern arranged to accommodate modern, mechanised farming practices.

30. In close up views, and from the footpath that passes to the south-west of the appeal site in particular, the wind turbine would appear as a highly prominent imposition, but the nature and scale of the receiving landscape means that it would not look particularly incongruous. That conclusion is consistent with the reduced sensitivity of parts of the Tributary Farmland classification the NNLSAre alludes to.

31. The NNLSAre goes on to suggest (as does the NNLCA 2018) that the open, exposed nature of the landscape and prominent undeveloped skylines serve to increase sensitivity. I disagree; in more distant views, the open, exposed nature of the landscape, and the position of the wind turbine proposed on a prominent skyline would give it a functional logic, that would aid assimilation and reduce the harmful impact of its presence. In these views, because of the large scale of the landscape, and sweeping views across it, the wind turbine, or indeed wind turbines, proposed would not look particularly out of place.

32. Taking those points together, while the proposal would cause some harm in terms of landscape character and visual amenity, the overall impact of the wind turbine proposed in these terms would be limited. It is also relevant to note that, while I do not treat them as considerations attracting significant weight, the proposal would be temporary, and reversible.

33. I have reached similar conclusions in relation to the wind turbine proposed at Pond Farm. In cumulative terms, the wind turbines proposed would be seen together from some viewpoints, and there would be sequential views as one moves through the landscape. However, the wind turbines would be sufficiently

far apart for them to be perceived as individual installations that sit relatively comfortably in their landscape context. The cumulative harm caused would be greater than either considered alone but again, for the reasons set out, the temporary and reversible harmful impact on landscape character and visual amenity would be limited.

34. In terms of the AONB, the wind turbine proposed would be about 1.3km from the southern boundary which is formed by the A174. From what I saw, with this degree of separation, and given the gently rolling nature of the landscape, and the relatively flat horizon, the wind turbine proposed would not be particularly prominent in views from, or towards, the Wooded Glacial Ridge landscape classification, or the AONB. Where visible, it would be very clearly perceived as an element well before, or beyond, the Wooded Glacial Ridge, or the AONB. The same would be true of viewing positions where both the wind turbine at issue here, and that proposed at Pond Farm, would be visible in concert.

35. On that basis, the proposal would have no detrimental impact on the landscape character or visual amenity of the area classified as Wooded Glacial Ridge, or the special qualities of the AONB, or its setting.

Designated Heritage Assets

36. In dealing with landscape character and visual amenity I start from the premise that a man-made intervention of significant height, like a wind turbine, is bound to have something of a harmful impact on the receiving landscape. However, my starting point in dealing with impacts on the setting and thereby the significance of designated heritage assets is not the same.

37. It is evident from the visual material and what I saw at my site visits that visibility of the wind turbine proposed would bring about change to the setting of a number of designated heritage assets. However, change would not necessarily lead to harm to significance because that would depend on the nature of the contribution setting makes to the significance of the designated heritage asset concerned. Put simply, in dealing with the impact on the setting and thereby the significance of designated heritage assets, visibility from, or in juxtaposition with, the asset, does not necessarily equate to harm to the asset's significance.

38. For example, the Red House, a Grade II listed building sits about 0.7km to the south west of the site of the proposed turbine. Like most listed buildings, it derives much of its significance from its intrinsic architectural and historic interest. However, it does derive some significance from its relationship with the rural area around it; an area that it has a historical and functional association with.

39. At the separation distance involved, the presence of the wind turbine proposed in views from the property, or any views of the house and its associated buildings in juxtaposition with it, will not alter that relationship, or affect the ability to appreciate it. In that way, while the proposal will change the setting of the Red House, it will not do so in a way that would harm its significance.

40. I reach a similar conclusion in relation to All Saint's Church, Bodham (a Grade II* listed building), the Church of St Mary, Baconsthorpe (a Grade II* listed building), and the Church of All Saints, Hempstead (also a Grade II* listed

building). All derive a part of their significance from their position in the rural settlements they serve but, at the separation distances involved, the ability to see the wind turbine proposed from the environs of the churches, or in juxtaposition with them, will not affect those relationships, or an understanding of them. The same conclusion holds for any cumulative impact alongside the proposal at Pond Farm.

41. There is also a suggestion that the proposal would introduce a competing tall object into the landscape that would diminish the landmark status of the church towers. It is fair to say that the ability to see church towers from some distance away, bestows on them a landmark status, indicating the position in the landscape of the settlement they serve. That is another way in which setting contributes to their significance.

42. However, the wind turbine proposed would be an isolated feature; it would not mark the position of a settlement. In that way, while it would be a prominent feature in the landscape, it would very clearly have a different function to a church. In that way, it would not compete with, nor diminish the status of the church towers as landmarks and would have no harmful impact on their significance as a result. The same conclusion applies to consideration of any cumulative impact with the wind turbine proposed at Pond Farm.

43. Suggestions have been made too that the proposal would harm the respective settings, and thereby the significance of the Baconsthorpe, Hempstead, and Glaven Valley Conservation Areas.

44. As parts of rural settlements, the conservation areas at Baconsthorpe and Hempstead derive some significance from their settings in the countryside. To my mind, the visible presence, in some views, of a wind turbine, 2km and 1.5km distant respectively, would not affect relationships with the surrounding countryside in any detrimental way. There would be no harm caused to the significance of either conservation area as a result of the proposal or indeed, proposals.

45. The Glaven Valley Conservation Area is relatively large, stretching from the coast to the west and south-west of Holt, centred on the River Glaven. The contrasting landscape form and agricultural character of the area where the wind turbine is proposed contributes something to the significance of the conservation area but that is limited, in my judgment, to offering an understanding of why the conservation area boundary is so drawn. The presence of the wind turbine proposed in some views into and out of the conservation area will not affect that understanding in any harmful way.

46. All that brings me to Baconsthorpe Castle. The group of assets known as such is located in a low-lying position, about 1km to the north of the village of Baconsthorpe. It comprises the substantial remains of a late-medieval fortified manor house. The entire complex which covers a rectangular area of around 250m x 200m is a Scheduled Ancient Monument[12] and the remains of three surviving structures within the area of the SAM are listed buildings: the remains of Baconsthorpe Castle (the original fortified manor house) is Grade I; the remains of Baconsthorpe Hall (the outer gatehouse) is Grade II; and the tithe barn at Hall Farm is also Grade II.

[12] Referred to hereafter as SAM

47. The late medieval fortified manor house sits in the north-west quadrant of the SAM and is surrounded by a moat. The moat has been expanded on the east side of the manor house to form a mere in the north-east quadrant. To the south of the moat, in the south-west quadrant, are the remains of the outer courtyards of the fortified house that evolved into Baconsthorpe Hall and Hall Farm. In the south-east quadrant, there are earthworks forming the remains of a formal garden associated with Baconsthorpe Hall.

48. All this adds up to a designated heritage asset of the highest order of significance. That significance lies predominantly in the architectural interest of the remaining fabric, and in the below-ground archaeology. Notwithstanding that, the complex derives significance from its setting in three main ways.

49. Firstly, the castle in its earliest form was a moated enclosure that depended upon ready access to water and the ability to impound the water around the castle for defensive purposes. This has dictated the position of the castle on the southern edge of a shallow valley floor close to a stream. This position made it possible to more easily create a water-filled moat and secure dry access to the site from the higher ground to the south. The locational logic remains readily discernible and contributes to an understanding of the asset.

50. Secondly, throughout its history, Baconsthorpe Castle was at the centre of an agricultural estate. The landscape around the asset is much changed from the medieval period, obviously, and there are many modern features in it, but the agricultural surroundings allow an appreciation of the functional relationship between the complex and its surroundings, and how the wealth that underpinned its development was generated.

51. Thirdly, the complex can be experienced in a series of views within the complex itself, and from rights of way around it. The shorter-range views facilitate an appreciation of the architectural sophistication of the remains, allow the observer to visualise what the complex must once have been like, and take in planned outward views, in particular across the mere. The longer-range views allow the place of the asset in the wider landscape, and its isolation from Baconsthorpe, to be discerned.

52. It is clear from the visualisations that the wind turbine at issue here would be seen from various places on the approach to the complex. It would also be visible from points within and around the complex itself. The visualisations for the Pond Farm proposal demonstrate that it too would be visible from points within and around the complex. However, as the turbine at issue here would be 1.3km to the west (roughly) and that at Pond Farm just under 2km to the east, the two wind turbines would not be seen together. There would however be sequential views as the gaze of the observer traverses so a cumulative impact would occur.

53. It is important first of all to set out that while visibility of the wind turbine proposed alone, or in the knowledge of the presence of the wind turbine at Pond Farm in the opposite direction, from within or around the complex, would lead to a change in the setting of the complex, that change need not equate to a harmful effect on its significance.

54. Notably, the presence of the wind turbine, or indeed the wind turbines, at the separation distances involved, would not undermine the ability to appreciate the locational logic of the castle complex. Neither, given the nature of the

surrounding agricultural landscape, much changed from medieval times, with significant man-made interventions already like the present-day field pattern, hedged field boundaries, blocks of woodland, relatively large agricultural sheds, silos, the communications mast near the Pond farm site, the water tower at Baconsthorpe, and indeed the car park adjacent to the complex, would their presence, some distance away, mask an understanding of the way the complex functioned in an agricultural hinterland, and how the wealth that underpinned its development was generated.

55. In terms of any impact on longer range views, there are two approaches to the complex. Before the 19th Century, the main approach was northwards (roughly) from Baconsthorpe, along Hall Lane but the more commonly used approach now is a 19th Century farm track that approaches the complex from the south east and gives vehicular access to the car park. There are also two rights of way that provide access to the complex from Bodham, to the north.

56. The nature of the approach to Baconsthorpe Castle along Hall Lane is such that views to the north-west, in the direction of the wind turbine proposed are largely screened. One emerges relatively close to, and more or less opposite, the hall or gatehouse, at a point where a car park forms the foreground of the view towards the complex. In this view, the wind turbine proposed would be a relatively distant feature, far to the west, on the periphery of the view. Bearing in mind the modern features already present in these and wider views, it would not detract from an appreciation of the place of Baconsthorpe Castle in the wider landscape, or its isolated nature. The wind turbine at Pond Farm would even further away, similarly peripheral but in the opposite direction, and harmless, in these views.

57. The approaches from the north are, broadly speaking, directed towards the complex so, where it is visible, Baconsthorpe Castle is the focus of the view. The wind turbine at issue would be relatively distant, on the extremity of the view, and that proposed at Pond Farm would be at the opposite extremity. On that basis and bearing in mind again the modern nature of the landscape and some features within it, neither the wind turbine at Selbrigg Farm considered alone, or in concert with that proposed at Pond Farm, would detract from an appreciation of the place of Baconsthorpe Castle in the wider landscape, or its isolated nature.

58. In terms of the 19th Century farm track, as the relevant visualisations show, the wind turbine at issue would feature strongly in many views along the approach. However, because of the hedgerows, Baconsthorpe Castle is barely discernible in these views. When, further along the approach, the complex becomes more apparent, the wind turbine at issue would be visible too. However, it would not be so prominent that it would displace the Baconsthorpe Castle complex as the primary focus of the view. Bearing in mind the nature of the surroundings and modern features within it, it would not undermine one's ability to understand the placement of the complex in the landscape or make it appear less isolated. There would be no cumulative impact with the wind turbine proposed at Pond Farm in these view as it would be behind the observer on the approach.

59. Overall, in terms of longer-range views, along the approaches, or from elsewhere, the wind turbine proposed would not harm the setting or the

significance of the designated heritage assets affected. There would be no harmful cumulative effect with the wind turbine proposed at Pond Farm either.

60. I take a different view in terms of views from within the complex itself, and close to it, largely because, despite some intrusions, notably the communications mast near the site of the proposed wind turbine at Pond Farm, there is more of a timeless quality to the space enclosed by the complex, and its immediate periphery.

61. At points within the complex, such as from the bridge between the hall and the castle, and from points within the confines of the castle, the wind turbine at issue while not dominant, would be readily visible. Its presence would act as something of a distraction that would serve to undermine the appreciation of the architectural sophistication of the remains and make it a little more difficult for the observer to visualise what the complex must once have been like. In that way, the wind turbine at issue would have a negative impact on the setting of the complex, and thereby harm the significance of the individual designated heritage assets involved (the three listed buildings and the SAM), as well as the complex as a whole.

62. It is clear from the visualisations relating to it that the wind turbine at Pond Farm would also be visible from within, and immediately around, the complex. Again, it would not dominate but it would similarly distract from an appreciation of the remains and make it more difficult to imagine the original form of the complex. On top of that, it would intrude into planned views in an easterly direction across the mere and the formal gardens. I deal with this in in my parallel decision, but it suffices to say here that this would also have a detrimental impact on the setting of the complex, harming the significance of the individual designated heritage assets involved (the three listed buildings and the SAM), as well as the complex as a whole.

63. The upshot of that is that there would be cumulative harm caused by the Pond Farm proposal that needs to be considered alongside the harm caused by the proposal at issue considered alone.

64. As I have set out above, it would be the distracting presence of the wind turbine(s) that would cause a degree of harm to the setting and thereby the significance of the complex. I would observe that it, or they, would be far less of a distraction to one's appreciation of the architectural sophistication of the remains, and their arrangement in relation to their immediate surroundings, or one's ability to visualise what the complex must once have been like, than the distractions presented by other visitors, and their activities, especially when numbers are high, or cars moving into and out of, or parked in, the car park.

65. Put simply, the degree of harm that would be caused by the turbine(s) to the setting and thereby the significance of Baconsthorpe Castle, and the designated heritage assets that constitute the whole, would be very slight.

66. With that in mind, and while there have been suggestions to the contrary, the harm to the significance of the designated heritage assets involved that would result from the proposal considered alone, or in cumulative terms would be, in Framework terms, at the lower end of the scale of less than substantial harm. While not matters that attract significant weight in forming that judgment, I would also note that the harmful impact considered individually, or cumulatively, would be temporary and reversible.

67. Paragraph 196 of the Framework tells us that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefit of the proposal, including, where appropriate, securing its optimum viable use.

68. Consistent with the operation of s.66(1) of the Act, and advice in the Framework, I attach considerable importance and weight to the limited harm that would be caused to the significance of the designated heritage assets affected. Nevertheless, according to the appellant, the wind turbine proposed would generate up to 3,000,000 kWh of renewable energy annually, saving around 700 tonnes of Carbon Dioxide emissions, and powering up to 575 homes every year. It would also improve the resilience of the network and minimise vulnerability.

69. These figures need to be approached with caution but even if one accepts the Council's calculation that the wind turbine proposed would generate enough electricity to power 343 average homes, and leave to one side the claimed advantages in terms of economic investment, these are still very weighty public benefits that would easily outweigh the limited, and less than substantial, harm that the proposal would cause, and the strong presumption against a grant of planning permission as a result of s.66(1) of the Act.

70. Considered alongside that proposed at Pond Farm, there would be more harm, though it would remain at the lower end of the scale of less than substantial harm. In applying the balance required by paragraph 196 of the Framework to these cumulative impacts, one must factor in the additional public benefits too. The wind turbine proposed at Pond Farm would generate around 2,400 MWh of electricity annually (net), from a renewable source, enough to power 600 average sized homes, or 550 in the East of England, and saving over 9,000 tonnes of Carbon Dioxide emissions over the lifetime of the scheme[13]. Again, leaving aside any claimed economic benefits, but factoring in further improvements to the resilience of the network and minimisation of vulnerability, the total of the public benefit that would accrue from the proposals would far outweigh the less than substantial harm that the proposals would cause, and the strong presumption against a grant of planning permission as a result of s.66(1) of the Act.

71. I address the development plan below, but in terms of the Framework, the proposal, and indeed the proposals, are acceptable, in heritage terms.

Other Matters

72. There have been concerns raised about the impact of the proposal on the living conditions of local residents, and the operation of local businesses. As a result of separation distances and intervening woodland screening, the wind turbine proposed would not appear dominant or overbearing from any dwelling, be they permanent residences or holiday accommodation. In terms of noise and shadow flicker, in the event of any undue impact, these matters can be addressed through appropriately worded conditions. I take a similar view of the potential for interference with television or radio reception, and broadband.

[13] The Council says that the Pond Farm proposal would generate electricity sufficient to power 655 average homes which strongly suggests an acceptance of the appellant's figures

73. On that overall basis, while the proposal would not be considered a welcome addition to the area, viewed objectively, there would be no significant impact on the living conditions of local residents as a result of it.

74. A number of representations have pointed to likely effects on tourism. I appreciate the importance of visitors to the local economy but given that the proposal(s) would have no great impact on the landscape or designated heritage assets that no doubt attract people to the area, I do not consider that the proposal(s) would have any material impact in this regard.

75. Issues have been raised around the potential for difficulties with birds and bats as a result of the proposal, but the only substantive evidence suggests that there would be no significant negative impact on either.

The Planning Balance

76. There would be no harm caused to the special qualities of the AONB or its setting so the development would not fall foul of CS Policy EN1. However, there would be some limited harm caused, by the proposal itself, and cumulatively with the broadly similar proposal at Pond Farm, to landscape character and visual amenity, and to the setting and thereby the significance of Baconsthorpe Castle, a designated heritage asset of great importance. These impacts would be temporary and readily reversible but, nevertheless, there would be a resulting failure to accord with CS Policies EN2 and EN8.

77. That said, in seeking to eliminate the possibility of *any* harm, and lacking any provision for balancing any potential benefits of the development, neither of these policies accord with the approach of the Framework. Having regard to paragraph 213 of the Framework, these should only attract due weight, according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). That would equate to very little weight indeed.

78. Of course, that approach does not and indeed cannot override the operation of s.38(6) of the Planning and Compulsory Purchase Act 2004 and for that reason, the failure to accord with these policies cannot simply be discounted. That said, it is imperative to consider the development plan as a whole. Reflective of the benefits that flow from renewable energy projects, and the fact that most renewable energy schemes will cause at least some harm, CS Policy EN7 is permissive of such proposals where there is no *significant* adverse effect on the surrounding landscape, heritage assets, the living conditions of local residents, or any other matters (my emphasis).

79. I have concluded that the temporary and reversible harm that the proposal would cause to the surrounding landscape, heritage assets, the living conditions of local residents, or any other matters, would not be significant. Those harmful impacts would be clearly outweighed by the benefits of the proposal(s) in terms of the production of renewable energy and through improvements to the resilience of the network, and the minimisation of its vulnerability. The proposal at issue complies, therefore, with CS Policy EN7. This policy is very clearly and specifically directed towards renewable energy projects and, as such, I regard it as the lead development plan policy for the purposes of determining the appeal. It is not unusual for different policies in a development plan to pull in different directions and in this case, compliance with CS Policy EN7 means that, notwithstanding the failure to comply with

Policies EN2 and EN8, the proposal complies with the development plan, read as a whole.

80. That is not the end of the matter in s.38(6) terms; there are of course other material considerations to consider. Principal amongst these is the Framework.

81. I have concluded above that notwithstanding the great weight to be given to the conservation of designated heritage assets in policy terms through the Framework, and in statutory terms through the operation of s.66(1) the Act in relation to listed buildings and their settings, the public benefits that would flow from the proposal are more than sufficient to outweigh the less than substantial harm to the significance of Baconsthorpe Castle that would be caused by the development at issue.

82. Consistent with paragraph 7 which explains that the purpose of the planning system is to contribute to the achievement of sustainable development, the Framework says in paragraph 148 that the planning system should support the transition to a low carbon future in a changing climate and it should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions; minimise vulnerability and improve resilience; and support renewable and low carbon energy and associated infrastructure.

83. Notwithstanding all that, there is still paragraph 154 to consider. Part b) says that a planning application for renewable and low carbon energy should be approved if its impacts are (or can be made) acceptable. It follows from my conclusions above that I consider that requirement to be met. However, one must then go on to footnote 49. This, I believe, has its genesis in the Written Ministerial Statement of June 2015[14], a matter I turn to below.

84. While the situation may be different in future[15], the proposal is not in an area identified as suitable for wind energy development in the adopted development plan. Though the planning impacts identified by the affected local community have been (or can be) fully addressed, whether the proposal has their backing is more difficult to gauge. Suffice to say that there has been vociferous objection to it, over a long period. In that overall context, it cannot be said that the proposal meets all the requirements of footnote 49, and on my reading, it would have to in order to accord with the Framework as a whole.

85. However, the 2015 WMS remains extant[16], and, given the vintage of the originating application, its transitional provisions apply. For a proposal like that at issue, we are told that local planning authorities[17] 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 its backing. As I have set out, these impacts have, or can be, addressed. The use of the word 'therefore' in the WMS means that as a result, the proposal can be deemed to have the backing of the affected local community. The Secretary of State has previously accepted the logic of that approach[18]. In my view, the proposal is therefore acceptable in WMS terms.

[14] Referred to hereafter as WMS
[15] Given the conclusions of the NNLSAre
[16] I base that conclusion on the lack of any formal announcement of its cancellation from the Government and continuing references to it in Planning Practice Guidance
[17] And I take that to include other decision-makers
[18] APP/D0840/W/15/3097706

86. Against this background, the question then arises as to whether, as a material consideration, the Framework should override the development plan. Certainly, it is a more recent exposition of Government policy than that which prevailed when the CS was prepared, examined and subsequently adopted. However, one cannot ignore the fact that the proposal is in accord with the WMS, which is also Government policy.

87. There have been other important developments too, since the latest version of the Framework was published in February 2019. Presaging the decision of the UK Parliament to do so on 1 May 2019, North Norfolk District Council agreed a motion declaring a climate emergency on 24 April 2019.

88. With the motion, the Council acknowledged: the devastating impacts that climate change and global temperature increases will have on the lives and livelihoods of people around the world, including on the health, safety and well-being of North Norfolk residents; the urgent need for action to be taken fast enough for there to be a chance of further climate change being limited to avoid the worst impacts of drought, floods, and extreme heat; the opportunity for individuals and organisations at all levels to take action on reducing carbon emissions, from both production and consumption; the need to enable low carbon living across society through changes to laws, taxation, infrastructure, policies and plans; and the Council's responsibility to help secure an environmentally sustainable future for residents and in relation to the global effects of climate change.

89. The Council has already supported many policy compliant renewable energy schemes onshore and is playing an active part in Nationally Significant Infrastructure Projects. That is laudable but in light of the matters the Council acknowledged in declaring a climate emergency, it would be something of a contradiction to resist further policy-compliant schemes in the District. The proposal at issue here readily complies with the Council's policy on renewable energy – a policy that was itself arrived at through an open process in which residents of the District had the opportunity to participate in.

90. In that overall context, it is my judgment that the decision here should be taken in accord with the development plan. There are no material considerations, including the Framework, that would justify a contrary approach. On that basis, I intend to allow the appeal.

Conditions

91. The main parties have worked up a list of conditions which I have considered in the light of advice in the Framework. Necessarily, some are pre-commencement in format, and I have taken the appellant's participation in the formation of the conditions as an acceptance of those conditions. I have also made minor amendments to several of the conditions in the interests of clarity and precision and, in particular, I have removed references to 'unless otherwise agreed by the local planning authority' or variants of that, because it appears to offer a route to variation of the terms of the permission outside the procedures in s.79 or s.73.

92. The first two conditions, such as those covering commencement, and setting out the approved plans, are standard impositions. The next three are required to deal with the temporary nature of the proposal, decommissioning at the end of that temporary period, and the procedure for what needs to occur should the

wind turbine fail to operate for a continuous period of months within the temporary period. A period of six months has been suggested but given that the whole basis for granting planning permission for the proposal rests on the ability to generate renewable energy, the appellant needs to be given a reasonable period to deal with any problems that might arise. Six months is far too short a period, in my view, and twelve months seems more practical.

93. The next suite of conditions dealing with the submission of a Construction Method Statement, and a Construction Traffic Management Plan, hours of working, and deliveries, are necessary in order to ensure that the construction process is managed safely and in a way that prevents undue impact on local residents.

94. A series of conditions are needed in order to ensure the development has a satisfactory appearance, overall. Included in these are conditions addressing cabling, the design, colour and the height of the wind turbine to tip and hub, the exact location of the wind turbine (with an allowance for micro-siting), external lighting, and the materials to be used for the sub-station.

95. In the interests of aviation safety, I have applied a condition which requires the developer to inform the Council of the anticipated completion date, the height of the tallest part of the development, and its precise location.

96. Several conditions have put forward to address the potential for the proposal to have detrimental impacts on the living conditions of residents in the vicinity. It is obviously necessary to deal with these matters and to that end, I have attached conditions to address the potential for shadow flicker, noise, and interference with television and radio reception.

97. The Council has suggested a condition that would address the potential for the operation of the wind turbine to interfere with broadband reception. Given the lack of any convincing evidence to suggest that it would, I can understand the appellant's reluctance to accept such a condition. However, I intend to attach the suggested condition. I accept that it is precautionary, and might be said, therefore, to fail the test of necessity, but the consequences of any interference with broadband reception could be very damaging for local residents and businesses. It would be wrong to allow the development to proceed without some protection from that possibility.

98. The suggested condition that would require the prior approval and implementation of an ornithological monitoring programme does not require any action to be taken if the impact of the turbine is found to fall outside predicted levels. As such, it would be pointless.

Final Conclusion

99. For the reasons given above I conclude that the appeal should be allowed.

Paul Griffiths

INSPECTOR

Annex A

Schedule of Conditions

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 approved plans: Fig 1: Site Location; Fig 2: Site Layout Plan; Fig 3: Aerial Site Layout; Fig 4: PowerWind 500 – Typical Turbine Detail; Fig 5: PowerWind 500 – Typical Foundation Detail; Fig 6: New and Upgraded Site Track Typical Detail; Fig 7: Hardstanding Typical Detail; Fig 8: Typical Substation Detail; Fig 9: 50m Met Mast General Arrangement; Fig 10: Site Entrance; and revised Colletts Drawing No.239358-30A1.2: Junction of Selbrigg Road and Unclassified Road (received by the local planning authority on 4 March 2015).

3) This permission shall expire no later than 25 years from the date when electricity is first exported from the wind turbine to the electricity distribution network (the First Export Date). Written confirmation of the First Export Date shall be provided to the local planning authority no later than one calendar month after the event.

4) Not later than 12 months before the expiry of this permission, a decommissioning and site restoration scheme shall be submitted for the written approval of the local planning authority. The scheme shall make provision for the removal of the wind turbine assembly, substation, and all associated above ground equipment and foundations to a depth of at least one metre below ground. The scheme shall include: (a) details of the management and timing of works; (b) a traffic management plan to address likely traffic impact during the decommissioning period; (c) an environmental management plan to include details of measures to be taken during the decommissioning period to protect wildlife and habitats; (d) identification of access routes; (e) location of material laydown areas; (f) restoration measures; and (g) an implementation programme. Decommissioning and site restoration shall be carried out in accordance with the approved details and completed within twelve months of the expiry of this permission.

5) If the wind turbine hereby permitted fails to operate for a continuous period of twelve months then the wind turbine assembly, substation, all associated above ground equipment, and foundations to a depth of at least one metre below ground level, shall be removed from the site in accordance with a scheme of decommissioning and site restoration which has been submitted to and approved in writing by the local planning authority. The developer shall submit the scheme under this condition for the approval of the local planning authority within one month of a request to do so made at any time after the six month period provided for in this condition.

6) No development shall take place until a Construction Method Statement (CMS) including details of all on-site construction works, post-construction reinstatement, drainage, mitigation, and other restoration,

together with details of their timetabling, has been submitted to and approved in writing by the local planning authority. The CMS shall include the following: (a) details of the formation of the construction compound, access tracks and any areas of hardstanding; (b) details of dust management procedures; (c) an Environment Management Plan including details of measures to be taken during the construction phase to protect wildlife and habitats; (d) details of emergency procedures and pollution response plans; (e) pollution control measures in relation to water courses and ground water, subsoil, bunding of fuel storage facilities, and sewage; (f) details of temporary site illumination; (g) details of the means of disposal of surplus and excess construction materials and arisings; (h) details of the site access and associated visibility splays; (i) details of the construction of the crane pad; (j) details of foundation works; (k) details of the cable trenches; (l) details of the erection of the meteorological mast; (m) details of wheel washing facilities and arrangements for keeping the site entrance and adjacent public road clean; (n) details of the sheeting of all HGVs taking spoil to or from the site to prevent spillage or deposit of any materials on the highway; (o) details of soils storage and handling; and (p) details of post-construction restoration/reinstatement of the working areas. Construction works shall be carried out in accordance with the approved CMS.

7) No development shall take place until a Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the local planning authority. The CTMP shall include details of: (a) the routing of construction traffic including protection and ecological measures; (b) the scheduling and timing of movements, including dry runs; (c) the management of junctions with, and crossings of, the public highway; (d) banksmen/escorts for abnormal loads; (e) temporary warning signs; (f) any temporary removal and replacement of highway infrastructure/street furniture and their subsequent reinstatement; and (g) any works required to prune or fell trees along the specified route. All construction traffic shall operate in accordance with the approved CTMP.

8) Hours of operation during the construction phase of the development approved herein, including delivery of construction materials or equipment to the site, shall be limited to 0700 hours to 1800 hours on Mondays to Fridays (inclusive) and 0700 hours to 1300 hours on Saturdays. No work shall take place on Sundays or Bank Holidays. Outside these hours, except in the case of emergencies, no construction works shall take place other than the safe completion of turbine erection activities where turbine assembly lifts are already underway. The local planning authority shall be informed in writing of any emergency works within three working days of occurrence.

9) Delivery of turbine and crane components may take place outside the hours specified in condition 8 subject to the local planning authority being given no less than two local authority working days prior notice of the traffic movements involved.

10) All cabling on the site between the wind turbine and the site sub-station shall be installed underground.

11) The wind turbine hereby permitted shall not be erected until details of the manufacturer's model, and its design, surface finish and colour, have

been submitted to and approved in writing by the local planning authority. The wind turbine erected shall accord with the approved details and be retained as such thereafter for the duration of this permission.

12) The height of the wind turbine hereby permitted shall not exceed 78 metres to the tip of the blades when each blade is in the vertical position as measured from natural ground conditions immediately adjacent to the turbine base. The hub height of the wind turbine shall not exceed 50 metres as measured from natural ground conditions immediately adjacent to the turbine base.

13) The wind turbine hereby permitted shall be erected at the following coordinates: Easting: 610845, Northing: 338615. Any variation of greater than 10 metres from these co-ordinates in any direction must first be approved in writing by the local planning authority.

14) Notwithstanding any design or colour approved by the local planning authority pursuant to condition 11 above, the wind turbine shall be of a three-bladed configuration, a semi-matt finish, and shall not display any name, sign, symbol or logo on any external surfaces other than those required for statutory health and safety reasons.

15) The wind turbine shall not be externally lit for any purpose save for Ministry of Defence accredited infra-red aviation lighting.

16) Construction of the substation hereby permitted shall not commence until details of materials to be used in its external surfaces have been submitted to and approved in writing by the local planning authority. Construction shall take place in accordance with the approved details.

17) The wind turbine approved herein shall not be erected until a written scheme to secure the investigation and alleviation of any electro-magnetic interference to TV or radio reception caused by the operation of the wind turbine has been submitted to and approved in writing by the local planning authority. The scheme shall provide for investigation by a qualified independent television and radio engineer of any complaint of interference with reception at a dwelling which lawfully exists or had planning permission at the date of this permission, where such a complaint is notified to the developer by the local planning authority within 12 months of the First Export Date. Where impairment is determined by the qualified independent engineer to be attributable to the wind turbine, details of the mitigation works, which have been approved in writing by the local planning authority shall be implemented in accordance with the approved scheme within 30 days of the notification of the complaint to the developer.

18) The wind turbine hereby permitted shall not be erected until the developer has provided written confirmation of the anticipated date of completion of construction, the height above ground level of the highest structure in the development, and the position of the wind turbine in terms of latitude and longitude, to the local planning authority

19) No electricity shall be exported from the development until a written scheme setting out a protocol for the assessment of shadow flicker at any affected dwelling, and the implementation any remedial measures, has been submitted to and approved in writing by the local planning authority. In the event of a complaint to the local planning authority

which the local planning authority considers to be valid and made by the owner or occupier of a dwelling which lawfully exists or had planning permission at the date of this permission, the approved protocol and associated remedial measures shall be put into operation.

20) Noise from the operation of the proposed turbine, when measured at the nearest noise sensitive premises, shall not exceed an LA90, 10 min of: a) 35 dB(A), up to wind speeds of 10m/s at 10m height at dwellings with no financial involvement in the project or; b) 45 dB(A), up to wind speeds of 10m/s at 10m height at dwellings with a financial involvement in the project. These fixed noise limits shall apply to the measured/predicted noise level including any tonal penalty assessed in accordance with the ETSU-R-97: The Assessment and rating of Noise from Wind Farms methodology.

21) In the event that the local planning authority receives a noise complaint, and once the wind turbine operator has been notified of the complaint in writing by the local planning authority, the wind turbine operator shall, at its expense, employ a suitably qualified noise consultant approved by the local planning authority, to undertake an appropriate noise assessment of the noise emissions from the wind turbine at the complainant's property following procedures first approved in writing by the local planning authority. A report of the assessment shall be provided in writing to the local planning authority within 60 days of it being requested. If the findings of this report identify that the wind turbine is causing noise levels at the property that are in excess of the fixed limits defined in condition 20, a scheme shall be included in the report detailing remedial works reasonably necessary to address the noise complaint, and these works shall be implemented in full in accordance with an agreed timescale.

22) The wind turbine hereby permitted shall not be erected until a written scheme to secure the investigation and alleviation of any electro-magnetic interference to broadband reception caused by the operation of the wind turbine has been submitted to and approved in writing by the local planning authority. The scheme shall provide for the investigation by a qualified person approved by the local planning authority of any complaint of broadband loss at a building which lawfully exists or had planning permission at the date of this permission where such a complaint is notified to the developer by the local planning authority within 12 months of the First Export Date. Where any impairment is determined by the qualified person to be attributable to the wind turbine, and that such impairment is of a degree that makes the current broadband service inoperative and that a comparable, in terms of service and cost, alternative broadband service is not available, then details of mitigation works shall be submitted to and approved in writing by the local planning authority. These approved mitigation works shall be implemented within 60 days of the notification of the complaint to the developer.