



Appeal Decision

Site visit made on 16 November 2020

by David M H Rose BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th November 2020

Appeal Ref: APP/H1840/W/20/3249183

Stockwood Business Park, Annexe at Rush Farm, Dark Lane to Stockwood Lane, Stockwood, Inkberrow, B96 6SX

- 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 Ms Alison King, Stockwood CBS Ltd against the decision of Wychavon District Council.
 - The application reference 18/02542/FUL, dated 29 November 2018, was refused by notice dated 18 September 2019.
 - The development proposed is: Proposed installation of 2 Britwind H15 micro wind turbines to generate electricity.
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Decision

1. The appeal is allowed and planning permission is granted for Proposed installation of 2 Britwind H15 micro wind turbines to generate electricity at Stockwood Business Park, Annexe at Rush Farm, Dark Lane to Stockwood Lane, Stockwood, Inkberrow, B96 6SX in accordance with the terms of the application, reference 18/02542/FUL, dated 29 November 2018, subject to the conditions set out in the Schedule to this decision.

Main Issue

2. Both local¹ and national policy have the common theme that 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 backing².
3. The site is not within an area identified as suitable for wind energy development and, as a consequence, the proposal would conflict with Policy SWDP 27D of the South Worcestershire Development Plan (SWDP) (2016) and National Planning Policy Framework (Framework) Footnote 49.
4. It follows that the main issue in this case is whether or not there are material considerations which would outweigh such conflict.

¹ Policy SWDP 27D of the South Worcestershire Development Plan (SWDP) (2016) refers to 'a Neighbourhood Plan' as opposed to 'the development plan'

² National Planning Policy Framework Footnote 49

Reasons

5. Conflict with Policy SWDP 27D is an inevitable conclusion in that the SWDP does not set out to identify areas suitable for renewable energy development and the area of the site is not within a made Neighbourhood Plan.
6. Nonetheless, the appellant asserts that the proposal accords with the second part of Footnote 49 as the local community has not opposed the project. However, the footnote is to be read as a whole and it is clearly a two stage process. It requires a site to be identified and thereafter for it to have local support.
7. Although Policy SWDP 27D is a relevant policy, it creates a lacuna in this case as there is no Neighbourhood Plan which would provide a policy foundation for the proposed development. In this regard, the Inkberrow Parish Neighbourhood Plan is not well advanced and, at present, it does not provide any indication of how the community would wish to shape its area. Neither the development plan nor the Framework offer express guidance where the initial policy framework of identifying suitable areas is absent.
8. There is no doubt that renewable energy, in general, is to be welcomed and the Framework confirms that the planning system should support the transition to a low carbon future and support renewable and low carbon energy. Where there are no relevant development plan policies, the Framework indicates that the presumption in favour of sustainable development should be exercised unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
9. Turning to potential impacts, the Council confirms that the proposed wind turbines would be at least partially softened in the wider landscape by existing vegetation (their visual impact being relatively localised) and they would not impact on any designated landscape. No other adverse impacts are alleged.
10. For my part, I note that the appeal site is within the Stock Wood Principal Timbered Farmlands consisting of rolling lowland topography, a dispersed pattern of settlement, an overall pastoral land use and relic patterns of ancient woodlands. The small scale wind turbines, when viewed from the surrounding landscape, would sit comfortably relative to field sizes and established landscaping and, more often than not, hedgerows and woodland would provide beneficial foreground or backcloth. Their clear association with the substantial group of buildings at Stockwood Farm would add further rationale.
11. Overall, in my opinion, the proposed wind turbines would integrate with the landscape and conserve its primary characteristics. As such the proposal would accord with Policy SWDP 25A.
12. As part of the application process, the appellant set out to establish whether or not the proposal had the support of the local community. A consultation strategy, agreed by the Council, included neighbourhood letters, public notice, and a public consultation event. None of these, or the opportunity to make representation during consideration of the planning application or this appeal, resulted in subsequent unresolved adverse comment.

13. I have however noted that Inkberrow Parish Council asked that a wider area be consulted with particular reference to Morton Hall's grounds. The appellant has confirmed that Morton Hall was included in its exercise and no representations were received. For my part, I observed from the adjacent Public Footpath that Morton Hall and its publicly open gardens enjoy extensive views from their elevated vantage point. In my opinion, the proposed wind turbines would appear as seemingly minor elements in the overall vista, having particular regard to their distance from the viewpoint and the overall landscape context.
14. I consider, given that the planning application was submitted to the Council almost two years ago, and a bespoke programme of community consultation commenced in June 2019, the lack of public opposition, whilst not counterpart to unequivocal support, is a very strong material consideration. As a matter of planning judgement, I am satisfied that it can be inferred that the proposal has the backing of the local community.
15. Drawing together the considerations relevant to the main issue, the proposal would conflict with Policy SWDP 27D. However, that policy simply defers consideration of wind energy development to another plan which does not yet exist in material form. As such, the development plan has not yet engaged with identifying suitable land or sites for wind energy development.
16. In terms of material considerations, there is widespread support for renewable energy in general, both nationally and locally, albeit backing for wind energy is heavily qualified in the development plan and the Framework. These, in essence, require that impacts are acceptable (having been assessed at plan making stage) and that there is community backing. In this case, although policy endorsement is absent, the proposal would accord with landscape criteria in Policy SWDP 25A and opposition from the local community is absent.
17. Both the development plan and the Framework have to be read as a whole. In this regard, I am not convinced that conflict with SWDP 27D in the circumstances of this case is sufficient to say that the proposal conflicts with the development plan in its entirety. Even if I were to reach that conclusion, taking the Framework as a whole, reinforced by the absence of physical harm or community opposition, the case specific material considerations that I have identified firmly tip the balance in favour of allowing the appeal.

Planning conditions

18. The appellant has confirmed that the conditions sought by the Council are reasonable and that it agrees to the suggested pre-commencement condition.
19. The time period within which the development is to commence is a statutory requirement. [Condition 1] Whilst it is necessary to define the permission by listing the approved drawings, there is no need to refer to other supporting documents. [Condition 2] There is, however, a need to impose an additional condition requiring agreement on the colour of the turbine blades and rotor as Drawing No 1 (RAL 7000 Squirrel Grey) is inconsistent with the Design and Access Statement (RAL 9018 Papyrus White). [Condition 3]

20. The site is within an area which could contain sub-surface archaeology which justifies a pre-commencement condition securing a programme of archaeological work. [Condition 4]
21. It is necessary to impose a condition limiting the duration of the permission given the design life specified in the literature accompanying the application. [Condition 5] Subsequent restoration of the site will be required. I have amended the apparently generic condition to reflect the scale and nature of the operations. [Condition 6] Similarly, in the event of the turbines becoming redundant before the end of the permission, removal in accordance with an agreed scheme will also be required. [Condition 7]
22. The Preliminary Ecological Appraisal, which formed part of the application, contains necessary safeguards. [Condition 8] So does the condition relating to construction hours. [Condition 9]
23. Although not included in the suggested conditions, I note that the Defence Infrastructure Organisation has requested certain details to safeguard aircraft safety. I have added an additional condition to this effect. [Condition 10]
24. I have re-drafted some of the suggested conditions for clarity and precision.

Conclusion

25. For the reasons given above, and having considered all other matters raised, I conclude that the appeal should be allowed.

David MH Rose

Inspector

Schedule of Planning Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. Unless where required or allowed by other conditions attached to this permission, the development hereby approved shall be carried out in accordance the following drawings:
 - a) Drawing No LOC: Location Plan
 - b) Drawing No 1: Site Plan (inset of wind turbine specification including elevations, foundation and colour) and
 - c) Drawing No 2: Site Plan Showing Cable Route
3. Notwithstanding condition 2 above, the turbine blades and rotor shall not be installed until their finished colour has been agreed in writing by the local planning authority and the development shall be carried out as approved and retained thereafter.
4. No development shall take place until a programme of archaeological work, including a Written Scheme of Investigation, has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and:
 - 1) The programme and methodology of site investigation and recording.
 - 2) The programme for post investigation assessment.
 - 3) Provision to be made for analysis of the site investigation and recording.
 - 4) Provision to be made for publication and dissemination of the analysis and records of the site investigation.
 - 5) Provision to be made for archive deposition of the analysis and records of the site investigation.
 - 6) Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

The development shall not be taken into use until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the approved Written Scheme of Investigation and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

5. This permission shall expire not later than 25 years from the date when electricity is first generated by the wind turbines (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.
6. Not later than 12 months before the expiry of this permission, a decommissioning and site restoration scheme, including a timescale for implementation, shall be submitted for the written approval of the local planning authority. The scheme shall be implemented in accordance with the approved details.

7. If the wind turbines hereby permitted fail to operate for a continuous period of twelve months, a decommissioning and site restoration scheme, including a timescale for implementation, shall be submitted for the written approval of the local planning authority within one month of a request to do so following the expiration of the twelve month period. The scheme shall be implemented in accordance with the approved details.
8. The development hereby permitted shall be carried out in strict accordance with the recommendations in Section 5 (Recommendations and Conclusions) of the Preliminary Ecological Appraisal (Report Ref: CSA/4293/01 - March 2019) prepared by CSA Environmental.
9. Construction work and deliveries associated with the approved development shall take place only between the hours of 08.00 and 18.00hrs Monday to Friday and 08.00 to 13.00hrs on a Saturday and shall not take place on Sundays or Bank or Public Holidays.
10. No later than 28 days before the erection of the turbines, written notification shall be given to the local planning authority, and copied to Defence Infrastructure Organisation, confirming the commencement and completion dates of construction; the maximum height of related equipment; and the latitude and longitude of the turbines to be erected.

End of Schedule